



भारत का राजपत्र

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No. 25] NEW DELHI, JUNE 12—JUNE 18, 2016, SATURDAY/JYAISTHA 22—JYAISTHA 28, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(केंद्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 27 मई, 2016

का.आ. 1159.—जनसाधारण की सूचना हेतु एतद द्वारा यह अधिसूचित किया जाता है कि मैर्सस जी बी पंत हिमालयन पर्यावरण और विकास संस्थान, नई दिल्ली (पैन-एएएजी3515 एफ) को आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग एवं 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के उद्देश्य के लिए 'वैज्ञानिक अनुसंधान संस्थान' की श्रेणी में कर निर्धारण वर्ष 2016-2017 के आगे से केंद्र सरकार द्वारा निम्नलिखित शर्तों के अध्यधीन अनुमोदित किया जाता है, यथा:-

- (i) अनुमोदित 'वैज्ञानिक अनुसंधान संस्थान' का एकमात्र उद्देश्य वैज्ञानिक अनुसंधान करना होगा;
- (ii) अनुमोदित संगठन स्वयं ही वैज्ञानिक अनुसंधान करेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग बही-लेखा रखेगा तथा उसमें अनुसंधान के लिए उपयोग की गई राशि को प्रदर्शित करेगा और ऐसी बहियों की उक्त अधिनियम की धारा 288 की उपधारा (2) के अनुसार स्पष्टीकरण में परिभाषित किए गए अनुसार लेखाकार द्वारा विधिवत

हस्ताक्षरित तथा सत्यापित की गई ऐसी लेखा परीक्षा रिपोर्ट उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आयकर विवरणी भेजने की तारीख तक आयकर आयुक्त या आयकर निदेशक, जिनके पास मामले का क्षेत्राधिकार है, को भेजेगा;

(iv) अनुमोदित संगठन सामाजिक विज्ञान में वैज्ञानिक अनुसंधान के लिए प्राप्त दान राशि एवं प्रयुक्त राशि का एक अलग विवरण रखेगा तथा विधिवत प्रमाणित ऐसे विवरण की एक प्रति लेखा परीक्षा द्वारा ऊपर संदर्भित लेखा परीक्षा की रिपोर्ट के साथ भेजी जाएगी।

2. केंद्र सरकार अनुमोदन को वापस लेगा यदि अनुमोदित संगठन

(क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में संदर्भित एक अलग बही-लेखा नहीं रखता: अथवा

(ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में संदर्भित इस की लेखा-परीक्षा रिपोर्ट नहीं भेजता: अथवा

(ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में संदर्भित वैज्ञानिक अनुसंधान के लिए इसको प्राप्त दान राशि एवं प्रयुक्त राशि का विवरण नहीं भेजता अथवा

(घ) इसके अनुसंधान कार्यकलापों को जारी रखना बंद कर दे अथवा इसकी अनुसंधान गतिविधियां उपयुक्त नहीं पायी जाती हैं अथवा

(ड.) उक्त नियमावली के नियम 5ग तथा पठित उक्त अधिनियम की धारा 35 की उपधारा 1 के खंड (ii) के प्रावधानों अनुरूप कार्य करना तथा अनुपालन करना बंद कर दे।

[अधिसूचना सं. 36/2016/फा.सं. 203/19/2015-आईटीए-II]

रोहित गर्ग, उप-सचिव

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 27th May, 2016

S.O.1159.—It is hereby notified for general information that the organization M/s. G.B. Pant Institute of Himalayan Environment and Development, New Delhi (PAN-AAAAG3515F) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), from Assessment year 2016-2017 onwards in the category of 'Scientific Research Association' subject to the following conditions, namely:—

(i) The sole objective of the approved 'Scientific Research Association' shall be to undertake scientific research;

(ii) The approved organization shall carry out scientific research by itself;

(iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139 of the said Act;

(iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research in social science and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:—

(a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or

(b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or

- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5D of the said Rules.

[Notification No. 36 /2016/F. No. 203/19/2015/ITA-II]

ROHIT GARG, Dy. Secy.

नई दिल्ली, 14 जून, 2016

का.आ.1160.—केंद्र सरकार, आयकर अधिनियम 1961, (1961 का 43) की धारा 56 की उपधारा (2) के खंड (VII ख) के परंतुक के खंड (ii) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा उक्त खंड के आशय से “व्यक्तियों की श्रेणियों” को उस “व्यक्ति के रूप में परिभाषित करती है जैसा कि वह निवासी होने के नाते उक्त अधिनियम की धारा 2 की उपधारा (31) के अंतर्गत परिभाषित किया गया है तथा जो “स्टार्ट अप” कंपनी के शेयरों के इश्यू के लिए अंकित मूल्य से अधिक कोई प्रतिफल करता है।

स्पष्टीकरण – इस अधिसूचना के आशय से, “स्टार्ट अप” से अभिप्राय ऐसी कंपनी से है जिसमें आम जनता पर्याप्त रूप से रुचि नहीं लेती है तथा जो भारत के राजपत्र, असाधारण भाग II, खंड 3, उपखंड (i) के अंतर्गत दिनांक 18 फरवरी, 2016 को प्रकाशित भारत सरकार, वाणिज्य और उद्योग मंत्रालय, औद्योगिक नीति और संवर्धन विभाग की दिनांक 17 फरवरी, 2016 की अधिसूचना सं. जीएसआरआई 80 (अ) में विनिर्दिष्ट शर्तों को पूरा करती है।

[अधिसूचना सं. 45 /2016/फा. सं. 173/103/2016-आईटीए-1]

रोहित गर्ग, उप-सचिव

New Delhi, the 14th June, 2016

S.O. 1160.—In exercise of the powers conferred by the clause (ii) of the proviso to clause (viib) of sub-section (2) of section 56 of the Income-tax Act, 1961 (43 of 1961), the Central Government, hereby notifies the ‘classes of persons’ for the purposes of the said clause as being the ‘person’ defined under sub-section (31) of section 2 of the said Act, being resident, who make any consideration exceeding the face value for issues of shares of a ‘startup’ company.

Explanation. - For the purposes of this notification, “startup” shall mean a company in which the public are not substantially interested and which fulfills the conditions specified in the notification of the Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, number G.S.R.I 80(E), dated the 17th February, 2016, published in the Gazette of India, Extraordinary, part II, section 3, sub-section (i), dated the 18th February, 2016.

[Notification No. 45/2016/F. No. 173/103/2016-ITA-I]

ROHIT GARG, Dy. Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 16 जून, 2016

का.आ.1161.—वीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री आलोक टण्डन के स्थान पर श्री एन. श्रीनिवास राव, आर्थिक सलाहकार, वित्तीय सेवाएं विभाग, वित्त मंत्रालय को तत्काल प्रभाव से और अगले आदेशों तक भारतीय वीमा विनियामक और विकास प्राधिकरण (आईआरडीएआई) में अंशकालिक सदस्य के रूप में नियुक्त करती है।

[फा. सं. 11/6/2003-वीमा-1]

मुदिता मिश्रा, निदेशक

(Department of Financial Services)

New Delhi, the 16th June, 2016

S.O. 1161.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints Shri N. Srinivasa Rao, Economic Advisor, Department of Financial Services, Ministry of Finance as Part-time Member of the Insurance Regulatory and Development Authority of India (IRDAI) vice Shri Alok Tandon, with immediate effect and until further orders.

[F. No.11/6/2003-Ins.I]

MUDITA MISHRA, Director

नई दिल्ली, 16 जून, 2016

का.आ. 1162.—जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्रीमती स्वेहलता श्रीवास्तव के स्थान पर श्री गिरीश चन्द्र मुर्मू, अपर सचिव, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से और अगले आदेशों तक उक्त निगम में सदस्य के रूप में नियुक्त करती है।

[का. सं. 14/3/2003-बीमा-I]

मुदिता मिश्रा, निदेशक

New Delhi, the 16th June, 2016

S.O. 1162.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956), the Central Government hereby appoints Shri Girish Chandra Murmu, Additional Secretary, Department of Financial Services as Member of the said Corporation vice Smt. Snehlata Shrivastava, with immediate effect till further orders.

[F. No.14/3/2003-Ins.I]

MUDITA MISHRA, Director

विदेश मंत्रालय**(सी.पी.बी. प्रभाग)**

नई दिल्ली, 7 जून, 2016

का.आ. 1163.—राजनयिक और कोंसुलर अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास मस्कत में कुमारी अंजना ठाकुर, जूनियर सचिवालय सहायक को दिनांक 7 जून 2016 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2016]

प्रकाश चन्द्र, उप सचिव (कोंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 7th June, 2016

S.O. 1163.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Ms. Anjana Thakur, Junior Secretariat Assistant as Assistant Consular Officer in the Embassy of India, Muscat to perform the Consular services with effect from 7th June 2016.

[No. T. 4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 8 जून, 2016

का.आ.1164.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास, टोरोंटो श्री अजय कुमार ठाकुर, सहायक अनुभाग अधिकारी को दिनांक 8 जून, 2016 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2016]

प्रकाश चन्द, उप सचिव (कोंसुलर)

New Delhi, the 8th June, 2016

S.O. 1164.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Ajay Kumar Thakur, Assistant Section Officer as Assistant Consular Officer in the Consulate General of India, Toronto to perform the Consular services with effect from 8th June 2016.

[No. T. 4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 8 जून, 2016

का.आ. 1165.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के दूतावास, रियाद में राजू कुमार, सहायक अनुभाग अधिकारी को दिनांक 8 जून, 2016 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2016]

प्रकाश चन्द, उप सचिव (कोंसुलर)

New Delhi, the 8th June, 2016

S.O. 1165.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Raju Kumar, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Riyadh to perform the Consular services with effect from 8th June, 2016.

[No. T. 4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

नागर विमानन मंत्रालय

नई दिल्ली, 15 जून, 2016

का.आ.1166.—जबकि मेसर्स अलकेमिस्ट किंग एयर सी 90 विमान VT-EQO दिनांक 24.05.2016 को पटना से दिल्ली के लिए एयर एम्बुलेन्स उड़ान का प्रचालन करते समय दिल्ली में दुर्घटना का शिकार हो गया था ।

और जबकि, केन्द्रीय सरकार को यह उचित प्रतीत होता है कि इस दुर्घटना के कारण और अंशदायी कारकों का अन्वेषण और निर्धारण किया जाना, और भविष्य में ऐसी दुर्घटना की पुनरावृत्ति से बचने के लिए सिफारिशें करना समीचीन है।

अब, वायुयान (दुर्घटनाओं एवं घटनाओं का अन्वेषण) नियमावली, 2012 के नियम 11 (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा इस दुर्घटना की औपचारिक जांच का निदेश देती है।

तदनुसार, केन्द्रीय सरकार श्री राजे भटनागर, सहायक निदेशक, एएआईबी, की अध्यक्षता में निम्नलिखित सदस्यों को शामिल कर जांच समिति नियुक्त करती है:-

- (i) सुश्री शिल्पा सेतिया, विमान संरक्षा अधिकारी, एएआईबी सदस्य के रूप में
- (ii) श्री दिनेश कुमार, विमान संरक्षा अधिकारी, एएआईबी सदस्य के रूप में

समिति, जब भी अपेक्षित होगा, अन्य विशेषज्ञों/एजेंसियों की सहायता भी लेगी।

समिति का मुख्यालय नई दिल्ली में होगा।

समिति अधिमानतः छह महीने के भीतर इसकी जांच पूरी करके अपनी रिपोर्ट केन्द्रीय सरकार को प्रस्तुत करेगी।

[सं. एवी-15013/2016-डीजी]

बी. एस. भुल्लर, संयुक्त सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 15th June, 2016

S.O. 1166.—Whereas an M/s Alchemist King Air C90 aircraft VT-EQO was involved in an accident at Delhi on 24.05.2016 while operating flight Air Ambulance from Patna to Delhi.

And whereas, it appears to the Central Government that it is expedient to investigate and determine the causes and contributory factors leading to the said accident and make recommendations to avoid recurrence of such accidents in future.

Now, in the exercise of the powers conferred by the Rules 11(1) of the Aircraft (Investigation of Accidents and Incidents) Rules, 2012, the Central Government hereby directs that a formal inquiry in the accident be made.

Accordingly, the Central Government hereby appoints a Committee of Inquiry headed by Sh. Raje Bhatnagar, Assistant Director, AAIB with following members:

- (i) Ms. Shilpy Satiya, Air Safety Officer, AAIB as member
- (ii) Sh. Dinesh Kumar, Air Safety Officer, AAIB as member

The committee will also take the assistance of other experts/agencies whenever required.

The headquarters of the Committee will be at New Delhi.

The Committee will complete its inquiry and submit its report to the Central Government preferably within six months.

[No. AV-15013/2016-DG]

B. S. BHULLAR, Jt. Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 8 जून, 2016

का.आ. 1167.—केन्द्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम 1946, (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गोवा राज्य सरकार, गृह विभाग (सामान्य), सचिवालय, पोवारिम, गोवा सं. 30/01/2015—सीबीआई एचडी(जी) / 3088 दिनांक 09.10.2015 द्वारा प्राप्त सहमति से सूचना प्रौद्योगिकी अधिनियम, 2000 (2000 का अधिनियम सं. 21) की धारा 65ए, 66ए, 66-बी, 66-सी, 66-डी, 66-ई, 66-एफ, 67ए, 67-ए, 67-बी, 67-सी, 84-बी, 84-सी तथा 85, यथासंशोधित सूचना प्रौद्योगिकी (संशोधन) अधिनियम 2008, (2009 की अधिसूचना संख्या 10) के अधीन दंडनीय अपराध की जांच करने तथा उससे सम्बद्ध अपराधों में किए

गए प्रयासों, दुष्प्रेरणाओं और बढ़यंत्रों तथा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध या अपराधों की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त गोवा राज्य में करती है।

[फा. सं. 224/01/2009-एवीडी-II]

मो. नदीम, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 8th June, 2016

S.O. 1167.—In exercise of the powers conferred by sub-section(1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Goa, Department of Home (General), Secretariat, Porvorim – Goa, vide Notification No.30/01/2015-CBI/HD(G)/3088 dated 09.10.2015, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Goa for the investigation of offences under sections 65, 66, 66-B, 66-C, 66-D, 66-E, 66-F, 67, 67-A, 67-B, 67-C, 84-B, 84-C and 85 of the IT Act, 2000 (Act No. 21 of 2000), as amended by the Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) and attempts abetment and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence(s) committed in the course of the same transaction or arising out the same facts.

[F. No. 224/01/2009-AVD-II]

Md. NADEEM, Under Secy.

नई दिल्ली, 9 जून, 2016

का.आ. 1168—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए नई इलाहाबाद उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों के अभियोजन तथा इनसे उत्पन्न दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा अन्वेषित प्रासंगिक अन्य मामलों में अपील, पुनरीक्षण का संचालन करने के लिए श्री अमित मिश्रा अधिवक्ता को उनकी नियुक्ति की तारीख से एक वर्ष तक अथवा अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/15/2016-एवीडी-II]

मो. नदीम, अवर सचिव

New Delhi, the 9th June, 2016

S.O. 1168.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Amit Misra, Advocate as Special Public Prosecutor for conducting prosecution of cases instituted by Delhi Special Police Establishment (CBI) in the High Court of Judicature at Allahabad and appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI) for a period of one year from the date of appointment or until further orders, whichever is earlier.

[F. No. 225/15/2016-AVD-II]

Md. NADEEM, Under Secy.

नई दिल्ली, 15 जून, 2016

का.आ. 1169—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गृह विभाग की अधिसूचना सं. एफ. 12-80/2015/बी-1/टीडब्ल्यूओ दिनांक 14/08/2015 के माध्यम से प्राप्त मध्य प्रदेश राज्य सरकार की सहमति से भारतीय दंड संहिता की धारा 120-बी के साथ पठित धारा 420, 467, 468, 471 तथा सूचना प्रौद्योगिकी अधिनियम, 2000 की धारा 66 डी के अधीन विभिन्न भारतीय नागरिकों और विदेशों में निवास कर रहे अप्रवासी भारतीयों के विरुद्ध किए अपराध, जिसमें छल की गई राशि वेस्टर्न यूनियन के माध्यम से मध्य प्रदेश के विभिन्न स्थानों पर प्राप्त हो रही है, में पड़यंत्र, छल और धोखाधड़ी का मामला पंजीकृत करने और जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त मध्य प्रदेश राज्य में करती है।

[सं. 228/79/2014-एवीडी-II]

मो. नदीम, अवर सचिव

New Delhi, the 15th June, 2016

S.O. 1169.—In exercise of the powers conferred by sub-section(1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government with the consent of the State Government of Madhya Pradesh vide Home Department Notification No. F.12-80/2015/B-1/Two dtd. 14/08/2015, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Madhya Pradesh for registering and investigating a case of conspiracy, cheating and forgery u/s 120-B IPC r/w 420 IPC, 467 IPC, 468 IPC, 471 IPC and Sec.66 D of Information Technology Act, 2000 committed against various Indian citizens and NRIs staying abroad, in which cheated amounts are being received through Western Union at various places of Madhya Pradesh.

[No. 228/79/2014-AVD-II]

Md. NADEEM, Under Secy.

नई दिल्ली, 15 जून, 2016

का.आ.1170.—केंद्र सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार की अधिसूचना सं. मिस-2014/सीआर-93/एसपीएल-3(ए) दिनांक 19/11/2014 द्वारा प्राप्त सहमति से एक ऑटोमेटेड डेटा प्रोसेसिंग सिस्टम को छलपूर्वक एक्सेस करने, ज्ञान नाम का सार्वजनिक उपयोग करने, अनाग्रहपूर्ण संचार करने, तथ्य छिपाने इत्यादि जो कि एक प्रकार का फोन घोटाला है जिसमें संसार के हजारों कम्प्यूटरों को फोन कॉल द्वारा इनफेक्टेड किया गया है। लक्समर्बर्ग भी इस प्रकार के आक्रमण का निशाना रहा है जिससे लक्समर्बर्ग की आपराधिक संहिता की धारा 509-1, 509-2 तथा 509-3 का उल्लंधन हुआ है और उपर्युक्त अपराध सूचना प्रौद्योगिकी अधिनियम, 2000 की धारा 43 के साथ पठित धारा 66 के विभिन्न प्रावधानों के सदृश है; से संबंध कानूनी सलाह के लिए (नोट वर्बल सं. 27/2014 दिनांक 15.07.2014) ग्रैंड डची ऑफ लक्समर्बर्ग के दूतावास, नई दिल्ली से प्राप्त याचना पत्र (लेटर रोगेटरी) को कार्यान्वित करने तथा उपर्युक्त अपराध/अपराधों में किए गए प्रयासों, दुष्प्रेरणओं और पड़यन्त्रों तथा उसी संव्यवहार में किए गए अथवा उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध या अपराधों में दोषी व्यक्तियों के विरुद्ध जांच करने तथा आपराधिक अभियोजन शुरू करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों एवं क्षेत्राधिकार का समस्त महाराष्ट्र राज्य में विस्तार करने के लिए एतद्वारा आदेश देती है।

[सं. 228/70/2014-एवीडी-II]

मो. नदीम, अवर सचिव

New Delhi, the 15th June, 2016

S.O. 1170.—In exercise of the powers conferred by sub-section(1) of section 5 read with section 6 of the Delhi Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government with the consent of the State Government of Maharashtra communicated vide Notification No.MISC-2014/CR-93/SPL-3(A) dated 19.11.2014 do hereby order for extending the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Maharashtra for investigation in respect of execution of Letters Rogatory received from the Embassy of the Grand Duchy of Luxembourg, New Delhi for legal assistance (Note Verbale No.27/2014 dated 15.07.2014) relating to fraudulent access to an automated data processing system, public use of a false name, unsolicited communication, concealment etc. which is a kind of phone scam, wherein thousands of computers throughout the world are infested by phone call. Luxembourg is also a target of these attacks, which correspond to violation of article 509-1, 509-2 and 509-3 of the Criminal Code of Luxembourg. The said offences correspond to various provisions of sections 43 read with 66 of the Information Technology Act (IT Act), 2000 and any other offence(s), attempt abetment and conspiracies in relation to or in connection with above mentioned offences and any other offence or offences committed in the course of the same transaction arising out of the same fact and simultaneously launching or criminal prosecution against the guilty persons.

[No. 228/70/2014-AVD-II]

Md. NADEEM, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 31 मार्च, 2016

का.आ. 1171.—राष्ट्रपति डॉ श्रीमती गीतांजली को केन्द्रीय खाद्य प्रयोगशाला में सूक्ष्मजीव वैज्ञानिक के पद पर तारीख 6.10.2010 से अधिष्ठायी रूप में नियुक्त करते हैं।

[सं. पी. 15025/54/2013-डीएफक्यूसी]

राकेश एस. नयाल, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 31st March, 2016

S.O.1171.—The President is pleased to appoint Dr. (Mrs.) Geetanjali substantively to the post of Microbiologist, Central Food Laboratory w.e.f. 6.10.2010.

[No. P. 15025/54/2013-DFQC]

RAKESH S. NAYAL, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 2 मई, 2016

का.आ. 1172.—इस विभाग की अधिसूचना सं. यू. 12012/736/2015—एमई—I दिनांक 15.12.2015 के अनुक्रम में भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में —

(क) “डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाडा, आंग्रे प्रदेश” के समक्ष ‘पंजीकरण के लिए संक्षिप्तिकरण’ कॉलम (3) शीर्षक के अंतर्गत डॉ. आर्थो ‘मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह जीएसएल मेडिकल कॉलेज व जनरल अस्पताल, लक्ष्मीपुरम, राजमुद्री में 2014 की बजाए 2013 अथवा उसके पश्चात् प्रशिक्षित किए गए छात्रों को डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाडा, आंग्रे प्रदेश द्वारा प्रदत्त होगी’।

“डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाडा, आंग्रे प्रदेश” के समक्ष ‘पंजीकरण के लिए संक्षिप्तिकरण’ कॉलम (3) शीर्षक के अंतर्गत एमडी बायोकेमेस्ट्री ‘मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह जीएसएल मेडिकल कॉलेज व जनरल अस्पताल, लक्ष्मीपुरम, राजमुद्री में 2015 की बजाए 2014 अथवा उसके पश्चात् प्रशिक्षित किए गए छात्रों को डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाडा, आंग्रे प्रदेश द्वारा प्रदत्त होगी’।

(त) “एनआईएमएस विश्वविद्यालय, (डीम्ड विश्वविद्यालय) ज्यपुर, राजस्थान” के समक्ष ‘पंजीकरण के लिए संक्षिप्तिकरण’ कॉलम (3) शीर्षक के अंतर्गत एमडी (डीवीएल / चर्म रोग एवं वीडी) ‘मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह राष्ट्रीय आयुर्विज्ञान व अनुसंधान संस्थान, ज्यपुर, राजस्थान द्वारा 2015 की बजाए 2014 अथवा उसके पश्चात् प्रशिक्षित किए गए छात्रों को एनआईएमएस विश्वविद्यालय, (विश्वविद्यालय) ज्यपुर, राजस्थान द्वारा प्रदत्त होगी’।

[सं. यू—12012/736/2015—एमई—I]

अमित बिस्वास, संयुक्त सचिव

CORRIGENDUM

New Delhi, the 2nd May, 2016

S.O. 1172.—In continuation to this Department's Notification No. U-12012/736/2015-ME.I dated 15.12.2015, and in exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said Schedule—

(a) against “Dr. NTR University of Health Sciences, Vijaywada, Andhra Pradesh” under the heading ‘Abbreviation for Registration’ (column 3), the D.Ortho qualification shall be recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijaywada, Andhra Pradesh in respect of students being trained at GSL Medical College & General Hospital, Lakshmiapuram, Rajahmundry on or after 2013 instead of 2014”.

Against Dr. NTR University of Health Sciences, Vijaywada, Andhra Pradesh” under the heading ‘Abbreviation for Registration’ (column 3), the qualification MD (Biochemistry) shall be recognized medical qualification when granted by Dr. NTR University of Health Sciences, Vijaywada, Andhra Pradesh in respect of students being trained at GSL Medical College & General Hospital, Lakshmiapuram, Rajahmundry on or after 2014 instead of 2015”.

(p) against “NIMS University (Deemed University) Jaipur, Rajasthan” under the heading ‘Abbreviation for Registration’ (column 3), the qualification MD(DVL)/Skin & VD shall be a recognized medical qualification when granted by NIMS University (Deemed University) Jaipur, Rajasthan in respect of students being trained at National Institute of Medical Sciences & Research, Jaipur, Rajasthan on or after 2014 instead of 2015”.

[No. 12012/736/2015-ME.I]

AMIT BISWAS, Under Secy.

पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

नई दिल्ली, 26 मई, 2016

का.आ. 1173.—पेट्रोलियम एवं खनिज पार्षद लाइन (भूमि में उपयोगकर्ता के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में, केन्द्रीय सरकार, भारत के राजपत्र दिनांक 28 अक्टूबर, 2009 में पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय द्वारा प्रकाशित अधिसूचना सं. का. आ. 2709(अ) दिनांक 27 अक्टूबर, 2009 में निम्नलिखित रूप से संशोधन करती है, अर्थात :—

उक्त अधिसूचना की सारणी के कालम (1) में, ‘श्री यु के वसावा’ के स्थान पर ‘श्री एस जी गामित’ शब्द रखे जाएंगे ।

और यह कि, उक्त प्रकाशित अधिसूचना तथा भारत के राजपत्र दिनांक 17 दिसम्बर, 2014 में प्रकाशित अधिसूचना सं. का.आ. 3206(अ) दिनांक 18 दिसम्बर, 2014 में विर्निदिष्ट अधिकार के क्षेत्र सक्षम प्राधिकारी के लिये वही होंगे ।

यह अधिसूचना इसके जारी होने की तारीख से लागू होगी ।

[फा. सं. ओ-12026 / 15 / 2014 / ओएनजी-III]

के. एम. सिंह, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 26th May, 2016

S.O.1173.—In pursuance of Clause (a) of Section 2 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the Notification No. 2709(E) dated 27th October, 2009 published by Ministry of Petroleum and Natural Gas in the Gazette of India dated 28th October, 2009 namely:-

In the said Notification, in the table in Column (1), for the words “Shri U.K.Vasava”, the words “Shri S.G.Gamit” shall be substituted.

And whereas, the area of jurisdiction mentioned in the said published Notification as well as in the Notification No. 3206(E) dated 17th December, 2014 published in the Gazette of India dated 18th December, 2014, shall remain same for the Competent Authority.

This notification is applicable from the date of issue.

[F. No. O-12026/15/2014/ONG-III]

K. M. SINGH, Under Secy.

नवीन और नवीकरणीय ऊर्जा मंत्रालय

नई दिल्ली, 6 जून, 2016

का.आ. 1174.—राष्ट्रीय पवन ऊर्जा संस्थान, जो नवीन और नवीकरणीय ऊर्जा मंत्रालय के प्रशासनिक नियंत्रणाधीन एक स्वायत संस्थान है, के नियमों एवं विनियमों के नियम 29 द्वारा प्रदत्त अधिकारों का उपयोग करते हुए राष्ट्रीय पवन ऊर्जा संस्थान के महानिदेशक के पद हेतु भर्ती नियमावली की अनुसूची की धारा 4 में निम्नलिखित संशोधन किए जाते हैं :

उक्त नियमावली की अनुसूची की वर्तमान धारा 4 की निम्नलिखित द्वारा प्रतिरक्षापित किया जाता है :

4.	वेतनमान	37400—67000 रु. के वेतन बैंड में 10000 रु. के ग्रेड वेतन के साथ। तथापि पांच वर्षों की नियमित सेवा पूरी कर लेने के पश्चात् पदधारी के वेतमान को विधिवत् गठित पीयर समीक्षा समिति की सिफारिशों के आधार पर अगले उच्चतर ग्रेड में उन्नत किया जा सकता है। इस प्रकार का उन्नयन पदधारी के लिए व्यक्तिगत होगा और उसके कार्य निष्पादन, कार्यदक्षता और कार्यनिष्ठा के अभिज्ञान में होगा।
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[फा. सं. 58/94/2015-डब्ल्यूई]

जे. के. जेठानी, वैज्ञानिक 'डी'

MINISTRY OF NEW AND RENEWABLE ENERGY

New Delhi, the 6th June, 2016

S.O. 1174.—In exercise of powers conferred by Rule 29 of the Rules and Regulation of the National Institute of Wind Energy, an autonomous institution under the administrative control of the Ministry of New & Renewable Energy, the following amendment in the clause 4 of the Schedule of the Rules for Recruitment for the post of Director General, National Institute of Wind Energy is made :

The existing clause 4 of the Schedule of the said rules stands substituted by the following :

4.	Scale of Pay	In the Pay Band of Rs. 37400—67000 with Grade Pay of Rs. 10000. However, on completion of five years of regular service the pay scale of the incumbent may be upgraded to the next higher grade based on the recommendations of the duly constituted Peer Review Committee. Such upgradation shall be personal to the incumbent and as a recognition of his performance, efficiency and dedication.
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[F. No. 58/94/2015-WE]

J. K. JETHANI, Scientist 'D'

श्रम और रोजगार मंत्रालय

नई दिल्ली, 30 मई, 2016

का.आ. 1175.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कृषक भारती कोऑपरेटिव लिमिटेड (कृषकों) के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 30.05.2016 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

6. विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रह हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/3/2014-एस.एस-I]

अजय मलिक, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 30th May, 2016

S.O. 1175.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Krishak Bharati Cooperative Ltd. (KRIBHCO) from the operation of the said Act. The exemption shall be effective w.e.f. 30.05.2016 for a period of one year.

2. The above exemption is subject to the following conditions namely:-

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';
- (2) Not notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :-

- (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
- (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

- (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
- (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/3/2014-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 6 जून, 2016

का.आ.1176.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार थेराप्टिक्स केमिकल रिसर्च कारपोरेशन के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या सीजीआईटी-2/ 38 2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42011/30/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O.1176.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D Reference No. CGIT-2/38 of 2013) of the Central Government Industrial Tribunal Cum Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Therapevtics Chemical Research Corporation and their workmen, which was received by the Central Government on 06.06.2016.

[No. L-42011/30/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M.V. DESHPANDE, PRESIDING OFFICER

REFERENCE NO.CGIT-2/38 of 2013

**EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/s. THERAPEUTICS
CHEMICAL RESEARCH CORPORATION (TCRC)**

M/s. Therapeutics Chemical Research Corporation (TCRC)
 Shiv Industrial Estate, 2nd& 3rd floor
 K.V. Balmukund Marg
 Chinchpokli (E)
 Mumbai 400 004.

AND

THEIR WORKMEN.

The President
 Goa Trade & Commercial Workers Union
 Velho's Building, 2nd floor
 Opp. Municipal Garden
 Panaji, Goa- 403 001.

APPEARANCES:

FOR THE EMPLOYER : Mr. Gurunath Naik, Advocate.
 FOR THE UNION : No appearance.

Mumbai, dated the 1st April, 2016.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-42011/30/2013-IR (DU), dated 20.06.2013 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether refusal of employment to Shri Maruti Naik, Shri Manohar Kesarekar and Shri Yeshwant N. Naik w.e.f. 17/10/2012 is legal and justified? What relief the workmen are entitled to?"

2. After receipt of the Order of Reference, both parties were served with notices. The matter was fixed for filing of Statement of Claim by the Second party/ Union. Though second party union was served with notice, none appeared on behalf of the union before this Tribunal. On 26/06/2015 fresh notice was issued to the Second party/union. Acknowledgement receipt of the same is on record at Ex-9. However none appeared before this Tribunal on behalf of the Second Party Union. The reference is pending since 2013 and matter was adjourned on several occasions for filing of Statement of Claim by the Union. The second party union neither appeared before this Tribunal, nor filed their Statement of Claim. In the circumstances, I think it proper to dispose of the Reference for want of prosecution. Thus the order:

ORDER

Reference stands disposed off for want of prosecution.

Date: 01.04.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ.1177.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एडवांस्ड सेंटर फॉर ट्रीटमेंट रिसर्च एंड एजुकेशन के प्रबंधतात्र के संबद्ध नियोजकों और उनके कमिकरों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या सीजीआईटी-2 / 14 2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42011/177/2011-आईआर (डीयू)]

पी. के. वेनुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O.1177. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D Reference No.CGIT-2/14 of 2012) of the Central Government Industrial Tribunal Cum Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Advanced Center for Treatment Research & Education and their workmen, which was received by the Central Government on 06.06.2016.

[No. L-42011/177/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

M.V. DESHPANDE

PRESIDING OFFICER

REFERENCE NO.CGIT-2/14 of 2012

EMPLOYERS IN RELATION TO THE MANAGEMENT OF
ADVANCED CENTRE FOR TREATMENT RESEARCH & EDUCATION IN CANCER

The Director
 Advanced Centre for Treatment Research & Education in Cancer
 Tata Memorial Centre
 Kharghar
 NaviMumbai 410208.

AND

THEIR WORKMEN

The General Secretary
 KonkanShramikSangh
 Neel Kant Apartment
 (Nr. Dr. Bhadkamkar Hospital)
 Khargar Lane
 Mahagiri
 Thane 400 601.

APPEARANCES:

FOR THE EMPLOYER : Mr. George Kurian, Advocate.
 FOR THE UNION : No appearance.

Mumbai, dated the 13thApril, 2016.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-42011/177/2011-IR (DU), dated 23.02.2012 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of the Konkan Shramik Sangh for permanency and regularisation of Shri Balaram M. Thakur and 94 other workmen as per Annexure A in the services of the establishment of Advanced Centre for Treatment Research & Education in Canter (Tata Memorial Centre) Kharghar, Navi Mumbai is legal, just and proper? What relief the workmen are entitled to?”

List of workmen

1. Shri Balaram M. Thakur.
2. Shri Shivaji K. Jadhav.
3. Shri Tolamad A. Shaikh.
4. Shri Bharat D. Mhatre.
5. Shri Aaslam A. Shaikh
6. Shri Ananta N. Bhoir.
7. Shri Dagdu R. Kesarkar.
8. Shri Lahu N. Bhoir.
9. Shri Pandurang N. Salunkhe.
10. Shri Noor H. Shaikh.
11. Shri Premshok N. Mhatre.

12. Shri Ankush P. Bhoir.
13. Shri Prakash U. Morawakar.
14. Shri Baban B. Mhatre.
15. Shri Harishchandra K. Mhatre.
16. Shri Jaywant S. Kadu.
17. Shri Jagdish T. Bhoir.
18. Shri Nilesh S. Mhatre.
19. Shri Jitendra M. Bhoir.
20. Shri Sandip M. Suryawanshi.
21. Shri Tanaji S. Waidande.
22. Shri Subhash N. Shinde.
23. Shri Milind D. Revane.
24. Shri Laxman G. Jadhav.
25. Shri Jay Telvane.
26. Shri Ramesh N. Mhatre.
27. Shri Pandurang M. Mhatre.
28. Shri Sandip A. Thakur.
29. Shri Mubin M. Chaugule.
30. Shri Ram B. Mhatre.
31. Shri Santosh J. Gaikar.
32. Shri Gajanan J. Gaikar.
33. Shri Ramchandra B. Mhatre.
34. Shri Khalil Chaugule.
35. Shri Abhimanyu Mhatre.
36. Shri Ananta N. Mhatre.
37. Shri Sursh M. Kamble.
38. Shri Chandrakant B. Madhavi.
39. Shri Vinod R. Joshi.
40. Shri Rupesh H. Koli.
41. Shri Chandrakant R. Vaskar.
42. Shri Mansur A. Shaikh.
43. Shri Pradeep D. Gharat.
44. Shri Kum. Dharemendra B. Joshi.
45. Shri Ramesh J. Jadhav.
46. Smt. Hira D. Jadhav.
47. Shri Bhagwan P. Bhatose.
48. Shri Bhagwan M. Revane.
49. Shri Promod G. Baskar.
50. Shri Iftikar A. R. Patel.
51. Shri Imtihazz A. Shaikh.
52. Shri Gorakh S. Sonawane.

53. Shri Shrad G. Mhatre.
54. Shri Nazir A. R. Patel.
55. Shri Ajay R. Bhoir.
56. Shri Pramod N. Mhatre.
57. Shri Sopan D. Bhoir.
58. Shri Sunil T. Bhoir.
59. Shri Eknath S. Bhoir.
60. Shri Dyaneshwar K. Gharat.
61. Shri Rupesh G. Joshi.
62. Shri Aarif S. Shaikh.
63. Shri Minabai R. Revane.
64. Smt. Surekhabai S. Jadhav.
65. Shri Vijay V. Jadhav.
66. Shri AansarShaikh A. Shaikh.
67. Shri Ravindra G. Katkari.
68. Shri Pramod S. Rupekar.
69. Shri Ankush S. Repekar.
70. Shri Ramdas K. Paradhi.
71. Shri Sahyadri S. Revane.
72. Shri Samad Shaikh.
73. Shri Uttam Mhatre.
74. Shri Ramesh More.
75. Shri E. Joshi.
76. Shri Chetan Patil.
77. Shri Arjun Patil.
78. Shri Javed Shaikh.
79. Shri Nitesh Joshi.
80. Shri Namdev D. Mhatre.
81. Shri Julpesh Patel.
82. Shri . Firoz Shaikh.
83. Shri Sachin D. More.
84. Mrs. Suman D. Revene.
85. Shri Dalvi.
86. Shri Harish J. Khandekar.
87. Shri Kiran A. Vasker.
88. Shri Sunil Suresh Waghmare.
89. Shri Dnyeshneshor K. Sawat.
90. Shri Joma Kashinath Pagade.
91. Shri Pradesh R. Vaskar.
92. Shri Rajesh S. Mhatre.
93. Shri Nitin T. Mhatre.

94. Shri Vishwanth Patil.

95. Shri Abdul Ahamad Shaikh.

2. After receipt of the reference, both parties were served with notice. In response to the notice, Second party union filed their Statement of Claim at Ex-4. The first party resisted the statement of claim by filing their Written Statement vide Ex-5. Issues were framed at Ex-6. Thereafter matter was pending for recording evidence of second party Union. Advocate for the second party Union filed application withdrawing his appearance on behalf of the union. Thereafter the matter was adjourned on several occasions for filing of documents and affidavit by second party union. Neither anybody appeared for second party union nor they filed any documents or led evidence to make out their case. As the Second Party Union is not appearing in this Reference since July 2014 it seems they are not interested in pursuing this Reference. Therefore, I think it proper to dispose of the Reference for want of prosecution. Accordingly Orders passed on Ex-1. Thus the order:

ORDER

Reference stands dismissed for want of prosecution.

Date: 13.04.2016

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ.1178.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुपरिनेटेन्डेन्ट ऑफ पोस्ट ऑफिसेस कुरुक्षेत्र के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ एलसीए सं. 22 / 2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025 / 03 / 2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O.1178.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 22/2014) of the Central Government Industrial Tribunal Cum Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Superintendent of Post Officers Kurukshetra and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer

LCA No. 22/2014

Registered on 18.03.2015

Sh. Sat Parkash MTS
resident of Amargarh Colony
Karnal Road, Kaithal.

...Petitioner

Versus

The Senior Superintendent of Post Offices
Kurukshetra, Division
Kurukshetra.

...Respondent

APPEARANCES

For the workman Sh. R.P. Mehra, Adv.

For the Management Sh. Sanjeev Sharma, Adv.

Award**Passed on : 28.04.2016**

Sh. Sat Parkash has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947 (hereinafter called the 'Act'); claiming Rs.34,500/- as severance allowance, on the averments that he was appointed as Chowkidar w.e.f. 18.7.1989 and was promoted as MTS in May 2013 as per Court orders. That Chowkidars are 'Gramin Dak Sewak' and being so he is entitled to severance allowance at the rate of Rs.1500/- per year which when calculated come to Rs.34,500/- for the period of service he rendered. The same be calculated and paid to him.

Respondent-management filed written reply, controverting the averments and pleaded that the applicant was appointed as part time Chowkidar and his services were regularized on the orders of Court passed in OA No.665/HR/2013 vide order dated 02.05.2014 for regularization in MTS Cadre and his application was allowed vide order dated 14.05.2013 with the direction to the respondent-management to consider the case of the workman and the relevant portion of the order read as under:-

"Hence the respondent Department is directed to review the case of the applicant and to consider him for being treated as full time casual labourer from the date any junior in the Division where applicant was working as part time worker, has been considered as such full time casual labourer. If such junior has subsequently been regularized in service, similar treatment may be afforded to the present applicant also. If the applicant is found entitled to regularization as per this order, the benefit of pay fixation as a regular employee would only be allowed from the date of filling of present O.A. i.e. from 21.01.2013. Consideration of the applicant's case may be completed by the respondent Department within a period of three months from the date of a certified copy of this order being served upon the respondents."

The services of the workman were regularized and arrears of pay, D.A. etc amounting to Rs.2,41,672/- for a period of 14.05.2013 to 28.02.2015 have been paid to him. That he is not entitled to any severance allowance.

Parties were given opportunity to lead their evidence.

In support of his case, the workman Sat Parkash has appeared in the witness-box and filed his affidavit.

On the other hand, the respondent-management has examined Sh. I.C. Garg, who filed his affidavit, reiterating the stand taken by the respondent-management.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

It is the definite case of the respondent-management that the applicant was appointed as part time Chowkidar and this fact was admitted by the applicant in his OA No.665/HR/2013(Annexure R2).

Thus, the applicant was appointed only as a part time Chowkidar and he was not a regular employee. He was given the status of MTS when Court orders were passed. When he was working as a part time Chowkidar and was given the status of MTS on Courts orders, it cannot be said that he was entitled to any severance allowance and when it is so, he is not entitled to claim any amount on this account.

In result, this application of the workman is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ.1179.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल ऑफिस हरियाणा सर्किल एंड अदर्स के प्रबंधतंत्र के सबद्व नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2,चण्डीगढ़ के पंचाट (संदर्भ एलसीए सं. 301 / 2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025 / 03 / 2016—आईआर (डीयू)]

पी. के. वेनुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O.1179.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 301/2013) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief Post Master General Haryana Circle and Others and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Present: SRI KEWAL KRISHAN, Presiding Officer.

LCA No. 301/2013

Registered on 25.9.2013

Sh. Ran Vir Singh
S/o Sh. Dharam Singh,
House No. 297,
Sampla, Tehsil Sampla,
District Rohtak.

...Petitioner

Versus

1. The Chief Post Master General Haryana Circle Ambala.
2. The Superintendent of Post Offices Rohtak Division Rohtak.
3. The Senior Post Master Head Post Office Rohtak.

...Respondents

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 26.04.2016

Sh. Ran Vir Singh, workman has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947 (hereinafter called the 'Act'); on the averments that he was appointed as Chowkidar on 15.4.1984 at Sampla. His services were disengaged in July 2011 and he was reinstated recently. That he is entitled to 'Bonus' from the very beginning which had been provided vide DG Posts letter No.26-1/93 PAP dated 16th March 1994.

That he perform his duty from 5 PM to 9AM and he is entitled to get 'Bonus' and the same be computed and paid to him.

The respondent-management filed written reply controverting the averments and pleaded that the applicant was never engaged by it and he worked only as a part time Chowkidar and paid out of contingency fund. That he is not a 'Gramin Dak Sewak' and he is not entitled to get any 'Bonus'

Parties were given opportunity to lead their evidence.

It is not seriously disputed that the workman was appointed as part time Chowkidar in the year 1984 and his services were dispensed with in view of the letter dated 17.7.2011 (Annexure R1) vide which part time workers were ordered not to be engaged and their services were disengaged. Thereafter, the workman was again engaged and his services have been utilized by the management.

As per letter dated 19.9.2014 productivity linked Bonus for the year 2013-2014 was given to the employees and the opening lines read as follow:-

"The undersigned is directed to convey the sanction of the President of India to the payment of Productivity Linked Bonus for the accounting year 2013-2014 equivalent of emoluments of 60 (Sixty) Days to the employees of Department of Posts in Group 'D'/MTS, Group 'C' and non-gazetted Group 'B'. Ex-Gratia payment of bonus to Gramin Dak Sevaks who are regularly appointed after observing all appointment formalities, and Ad-hoc payment of bonus to Casual Labourers who have been conferred Temporary Status are also to be paid equivalent to allowances/wages respectively for 60 (sixty) Days for the same period."

It is not disputed that the workman do not fall in the category of the employees mentioned in the said letter, though he has been working with the department for the last long time. He was not conferred temporary status under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme dated 7.9.1989.

He cannot claim 'Bonus' simply on the averments that he has been working as part time Chowkidar who is not a 'Gramin Dak Sewak' as defined under Section 3(d) of the Department of Posts, Gramin Dak Sewak (Conduct and Engagement) Rules 2011 which read as follow:-

"(d) "Gramin Dak Sevak" means-

- (i) a Gramin Dak Sevak Branch Postmaster;
- (ii) a Gramin Dak Sevak Mail Deliverer;
- (iii) a Gramin Dak Sevak Mail Carrier;
- (iv) a Gramin Dak Sevak Mail Packer;
- (iv) a Gramin Dak Sevak Stamp Vendor."

Thus, the workman being not a 'Gramin Dak Sewak' and being not conferred the temporary status under the relevant scheme, cannot claim any Bonus.

In result, this application is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ.1180.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल ऑफिस हरियाणा सर्किल एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चण्डीगढ़ के पंचाट (संदर्भ एलसीए सं. 299/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016—आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1180.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 299/2013) of the Central Government Industrial Tribunal Cum Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief Post Master General Haryana Circle and Others and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer.

LCA No. 299/2013

Registered on 25.09.2013

Sh. Sanjeev Kumar
S/o Sh. Wazir Chand,
House No. 32, Ward No.6,
Sweeper, Sub Post Office,
Pehowa, District Kurukshetra.

...Petitioner

Versus

1. The Chief Post Master General Haryana Circle Ambala.
2. The Superintendent of Post Offices Kurukshetra, Division Kurukshetra. Respondents

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.
 For the Management : Sh. Sanjeev Sharma, Adv.

AWARD**Passed on : 25.4.2016**

Sh. Sanjeev Kumar, has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947 (hereinafter called the 'Act'), claiming bonus, on the averments that he was appointed as Sweeper on compassionate ground in November 1996 and the post is like 'Gramin Dak Sewak' who are paid bonus. That he is entitled to bonus in view of the letter dated 16th March, 1994. That the amount be calculated and paid to him.

The respondent-management filed reply, controverting the averments and pleaded that the workman was employed as part time Sweeper on contingency basis and he is not a 'Gramin Dak Sewak' and he is not entitled to any 'Bonus'.

I have heard Sh. R. P. Mehra for the workman and Sh. Sanjeev Sharma for the management and perused the file carefully.

It is the case of the workman himself that he has been working as part time Sweeper and being so, he cannot claim himself to be a 'Gramin Dak Sewak'.

'Gramin Dak Sewak' is defined under Section 3(d) of GDS (Conduct and Engagement) Rules 2011 which read as follow:-

“(d) “Gramin Dak Sevak” means-

- (i) a Gramin Dak Sevak Branch Postmaster;
- (ii) a Gramin Dak Sevak Mail Deliverer;
- (iii) a Gramin Dak Sevak Mail Carrier;
- (iv) a Gramin Dak Sevak Mail Packer;
- (v) a Gramin Dak Sevak Stamp Vendor.”

In this definition, a part time Sweeper is not covered and as such workman cannot be said to be 'Gramin Dak Sewak'.

In the letter dated 19.09.2014 Productivity Linked Bonus was given to the employees and its opening lines read as follow:-

“The undersigned is directed to convey the sanction of the President of India to the payment of Productivity Linked Bonus for the accounting year 2013-2014 equivalent of emoluments of 60 (Sixty) Days to the employees of Department of Posts in Group 'D'/MTS, Group 'C' and non-gazetted Group 'B'. Ex-Gratia payment of bonus to Gramin Dak Sevaks who are regularly appointed after observing all appointment formalities, and Ad-hoc payment of bonus to Casual Labourers who have been conferred Temporary Status are also to be paid equivalent to allowances/wages respectively for 60 (sixty) Days for the same period.

The workman do not fall in any category of the employees mentioned in the said letter and he was not granted temporary status under 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme dated 07.11.1989.

Thus, the workman neither fall within the definition of 'Gramin Dak Sewak' nor have been granted the temporary status of 'Casual Labourers' and therefore, he is not entitled to any 'Bonus'.

In the letter dated 16th March, 1994, as mentioned in the application, only guidelines have been given to disburse the 'Bonus' to the eligible persons and the workman cannot drive any benefit out of this.

In result, the application of the workman is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ.1181.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मिनिस्ट्री ऑफ कम्युनिकेशन एंड अर्दस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चण्डीगढ़ के पंचाट (संदर्भ एलसीए सं. 288/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O.1181.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 288/2013) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Ministry of Communication and Others and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer.

LCA No. 288/2013

Registered on 14.5.2013

Sh. Sat Pal Singh
S/o Sh. Ronak Ram Part Timer,
R/o Village Harigarh, Kingan
P.O. Cheeka, Tehsil Guhla,
District Kaithal.

... Petitioner

Versus

1. Through its Secretary Ministry of Communication Government of India, New Delhi.
2. The Chief Post Master General Haryana Circle Ambala.
3. The Superintendent of Post Offices Kurukshetra, Division Kurukshetra.
4. The Senior Post Master Head Post Office Kurukshetra. ... Respondents

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 25.04.2016

Sh. Sat Pal Singh, has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947 (hereinafter called the 'Act') claiming full time wages as Chowkidar; on the averments that he was appointed on 31.01.1998 as part time Chowkidar and he perform his duty from 5 PM to 9 AM. His services were disengaged in July, 2011. He again joined the duty and perform his duty for 12 hours in a day time. That Government has issued a Scheme called 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme dated 7.9.1989 and he fulfill the condition and he is entitled to temporary status and being so, he is entitled to wages as given to full time 'Casual Labourers'. Some of the employees filed application before the Central Administrative Tribunal, Chandigarh, which were allowed and they were granted 'Temporary Status' as well as wages as full time employees. That he is also entitled to wages as full time employee and the same be calculated and paid to him.

The respondent-management admitted that the workman was appointed as part time Chowkidar and has been continuing as such. He cannot claim parity with the employees who were employed on full time basis. That the case of the other employees who filed application before the Central Administrative Tribunal has no relevancy.

In support of their respective case, parties filed their affidavits and even Sat Pal Singh, workman appeared in the witness-box and supported his case.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management and perused the file.

It was vehemently argued by Sh. Mehra, counsel for the workman that similarly situated workmen were granted temporary status under the 'Casual Labourers' (Grant of Temporary Status and Regularization) Scheme dated 7.11.1989 and since the workman has been discharging the same function, he is entitled to the said status as well wages as full time employees.

It is suffice to say that under Section 33(C)(2) of the Act, the Court can only compute the benefits in terms of money which the workman is entitled to and this Court is not to declare first the status of the workman and then calculate the amount. If the workman wants to get wages as full time employee, he is to approach to appropriate forum for the 'Grant of Temporary Status' under the said Rules and this Court cannot grant him the wages by considering him as full time employee as it is the case of the workman himself that he was appointed as part time Chowkidar, which is also supported by the letter(Annexure R1).

Thus, there is no merit in this application and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ.1182.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुपरिनेन्डेन्ट ऑफ पोस्ट ऑफिसेस कुरुक्षेत्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-2, चण्डीगढ़ के पंचाट (संदर्भ संख्या एलसीए सं. 23/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेनुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1182.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 23/2014) of the Central Government Industrial Tribunal Cum Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Superintendent of Post Officers Kurukshetra and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer.

LCA No.23/2014

Registered on 18.03.2015

Sh. Raj Kumar
S/o Sh. Roora Ram,
Village and Post Office Sarsa,
Tehsil Pehowa,
District Kurukshetra.

...Petitioner

Versus

The Senior Superintendent of
Post Offices Kurukshetra,
Division Kurukshetra.

... Respondent

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.
For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 26.04.2016

Sh. Raj Kumar has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'); claiming Rs.40,500/- as severance allowance, on the averments that he was appointed as Chowkidar on 24.12.1985 and was promoted as MTS on 21.01.2013 as per orders of the Court. That Chowkidars are 'Gramin Dak Sewak' and severance allowance is to be given to 'Gramin Dak Sewak at the rate of Rs.1500/- per year and the applicant is entitled to Rs.40,500/- as severance allowance.

Respondent-management filed written reply, controverting the averments and pleaded that the workman was part time Chowkidar w.e.f. 24.12.1985. He filed OA No.221/HR/2013 in Central Administrative Tribunal, Chandigarh for regularization in MTS Cadre and his application was allowed vide order dated 11.02.2014 with the direction to the respondent-management to consider the case of the workman and the relevant portion of the order read as under:-

"Hence the respondent Department is directed to review the case of the applicant and to consider him for being treated as full time casual labourer from the date any junior in the Division where applicant was working as part time worker, has been considered as such full time casual labourer. If such junior has subsequently been regularized in service, similar treatment may be afforded to the present applicant also. If the applicant is found entitled to regularization as per this order, the benefit of pay fixation as a regular employee would only be allowed from the date of filling of present O.A. i.e. from 21.01.2013. Consideration of the applicant's case may be completed by the respondent Department within a period of three months from the date of a certified copy of this order being served upon the respondents."

The services of the workman were regularized and arrears of pay, D.A. etc amounting to Rs.2,74,896/-for a period of 21.01.2013 to 28.02.2015 have been paid to him. That he is not entitled to any severance allowance.

Parties were given opportunity to lead their evidence.

In support of his case, the workman Raj Kumar has appeared in the witness-box and filed his affidavit.

On the other hand, the respondent-management has examined Sh. I.C. Garg, who filed his affidavit, reiterating the stand taken by the respondent-management.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

It is the definite case of the respondent-management that the applicant was appointed as part time Chowkidar and this fact was admitted by the applicant in his OA No.221/HR/2013(Annexure R2).

Thus, the applicant was appointed only as a part time Chowkidar and he was not a regular employee. He was given the status of MTS when Court orders were passed. When he was working as a part time Chowkidar and was given the status of MTS on Courts orders, it cannot be said that he was entitled to any severance allowance and when it is so, he is not entitled to claim any amount on this account.

In result, this application of the workman is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ. 1183.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल ऑफिस हरियाणा सर्किल एंड आर्द्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चण्डीगढ़ के पचाट (संदर्भ एलएसी सं. 291 / 2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025 / 03 / 2016—आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1183.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 291/2013) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief Post Master General Haryana Circle and Others and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri KEWAL KRISHAN, Presiding Officer.

LCA No. 291/2013

Registered on 14.5.2013

Sh. Sat Pal Singh
S/o Sh. Ronki Ram Part Time,
Village-Harigarh Kingan,
PO-Cheeka Guha,
District Kaithal.

.....Petitioner

Versus

1. The Chief Post Master General Haryana Circle Ambala.
2. The Superintendent of Post Offices Kurukshetra, Division Kurukshetra.
3. The Senior Post Master Head Post Office Kurukshetra.Respondents

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 26.04.2016

Sh. Sat Pal Singh, workman has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'); on the averments that he was appointed as Chowkidar on 31.1.1998 and the Chowkidars falls in the category of 'Gramin Dak Sewak'. That he is entitled to 'Bonus' from the very beginning of the service as per letter dated 16.3.1994 which is as follow:-

1. "23-DA/Bonus/other claims to ED Agents to be made without delay-instances have come to the notice that Payment of DA/Bonus and other claims to ED Agents are not being made promptly and quite often being delayed considerably. This has been viewed seriously by the directorate. I am therefore directed to request you to issue necessary instructions to all concerned in future and when orders for AD/Bonus etc are issued by the Directorate, the payment are made promptly to ED Agents.
2. Chairman Postal Service Board has also decided that special watch may be kept on the payment being made to ED Agents and Head of Circles should ensure that there is no delay on this score.
3. To ensure that payments are not delayed in the circles, all heads of circles etc are requested to furnish a note in this regard in their monthly reports for atleast six months following the month of issue of orders for Payment of Bonus/DA etc confirming that the needful has been done in their circles vide A-2."

He perform his duties from 5 PM to 9AM and he is entitled to get 'Bonus' as given by the Government.

Respondent-management filed written reply controverting the averments and pleaded that the workman was appointed as part time Chowkidar and he is not entitled to claim any amount by way of 'Bonus'. That he was not engaged by following any procedure and he did not fall within the definition of 'Gramin Dak Sewak'.

Parties were given opportunity to lead their evidence.

Sh. Sat Pal Singh, workman has appeared in the witness-box and filed his affidavit supporting his case as set out in the claim statement.

On the other hand respondent-management did not lead any evidence.

I, have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management and perused the file.

It was argued by Sh. R.P. Mehra, counsel for the workman that Chowkidar being 'Gramin Dak Sewak' are entitled to 'Bonus'. The learned counsel for the management did not show any rules and regulations making provisions for payment of 'Bonus' despite being asked verbally several times.

However a letter dated 1.10.2010 is placed on the record vide which productivity linked bonus was given to the employees of Group 'D', Group 'C', non-gazetted Group 'B' and casual labourers but it is the case of the applicant himself that he joined the department as part time Chowkidar and he states so while appearing in the witness-box. He also placed on record a copy of the appointment letter(Annexure A-1), showing that he was appointed as a part time Chowkidar. Thus, he was not a regular employee of the respondent-management and when it was so, he is not entitled to any payment by way of 'Bonus' in the absence of the rules and regulations in this respect.

Being so, it is held that the applicant is not entitled to get any payment by way of 'Bonus' and his application is dismissed.

KEWEL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ. 1184.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल ऑफिस हरियाणा सर्किल एंड आदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ एलसीए सं. 292 / 2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल—42025 / 03 / 2016—आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1184.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 292/2013) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief Post Master General Haryana Circle and Others and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,

CHANDIGARH

Present: SRI KEWAL KRISHAN, Presiding Officer.

LCA No. 292/2013

Registered on 14.5.2013

Sh. Sat Parkash

S/o Sh. Jai Bhagwan Part Timer,

House No. 34, Ward No.13,

Gali No. 5, Amargarh Gamri Karnal,

District Kaithal.

.....Petitioner

Versus

1. The Chief Post Master General Haryana Circle Ambala.
2. The Superintendent of Post Offices Kurukshetra, Division Kurukshetra.
3. The Senior Post Master Head Post Office Kurukshetra.Respondents

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 26.04.2016

Sh. Sat Parkash, has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'); on the averments that he was appointed as Chowkidar on 18.7.1989 and falls in the category of 'Gramin Dak Sewak' and he is entitled to 'Bonus' in view of the letter dated 16.3.1994 by the management.

That he perform his duties from 5 PM to 9AM and the amount of 'Bonus' be calculated and paid to him.

Respondent-management filed written reply controverting the averments and pleaded that the workman was engaged as part time Chowkidar on purely temporary basis and he being not regular employee, he is not entitled to any 'Bonus'.

In support of his case, the workman filed his affidavit.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management and perused the file.

As per letter dated 17.7.1989(Annexure R1), the workman was appointed as part time Chowkidar.

Now the question is whether part time Chowkidar are 'Gramin Dak Sewak' and they are entitled to get the bonus. 'Gramin Dak Sewak' is defined under Section 3(d) of the GDS(Conduct and Engagement)Rules 2011which read as follow:-

"(d) "Gramin Dak Sevak" means-

- (i) a Gramin Dak Sevak Branch Postmaster;
- (ii) a Gramin Dak Sevak Mail Deliverer;
- (iii) a Gramin Dak Sevak Mail Carrier;
- (iv) a Gramin Dak Sevak Mail Packer;
- (v) a Gramin Dak Sevak Stamp Vendor."

Thus, its bare perusal shows that part time Chowkidars are not 'Gramin Dak Sewak'.

A letter dated 19.9.2014 which is placed on file show that productivity linked bonus was given to the employees for the year 2013-2014 and its opening lines read as follow:-

"The undersigned is directed to convey the sanction of the President of India to the payment of Productivity Linked Bonus for the accounting year 2013-2014 equivalent of emoluments of 60(Sixty)Days to the employees of Department of Posts in Group 'D'/MTS, Group 'C' and non-gazetted Group 'B'. Ex-Gratia payment of bonus to Gramin Dak Sevaks who are regularly appointed after observing all appointment formalities, and Ad-hoc payment of bonus to Casual Labourers who have been conferred Temporary Status are also to be paid equivalent to allowances/wages respectively for 60(sixty)Days for the same period."

The workman do not fall in any of the post mentioned in the said letter and he has not been granted the temporary status under the 'Casual Labourers'(Grant of Temporary Status and Regularization)Scheme dated 7.11.1989.

In these circumstances, the workman is not entitled to claim any amount by way of 'Bonus'.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ. 1185.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट सुपरिनेन्डेन्ट ऑफ पोस्ट ऑफिस कुरुक्षेत्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2,चंडीगढ़ के पंचाट (संदर्भ एलसीए सं. 13/2015) को प्रकाशित करती हैं, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1185.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 13/2015) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Superintendent of Post Offices Kurukshetra and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer.

LCA No.13/2015

Registered on 8.5.2015

Sh. Surender Kumar
S/o Sh. Parash Ram,
Resident of Village and Post Office Pehowa,
Tehsil Pehowa, District Kurukshetra.

...Petitioner

Versus

The Superintendent of Post Offices Kurukshetra,
Division Kurukshetra.

...Respondent

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.
For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 25.04.2016

Sh. Surender Kumar, has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'), claiming Rs.95,850/- as leave encashment; on the averments that he was appointed as EDA/GDS on 08.10.1980 and after 33 years of service, he was selected as MTS. That as per letter dated 14.05.2007, industrial workers are entitled to accumulation of earned leave which can be encashed to the extent of 10 months pay. That he is entitled to the amount by way of leave encashment along with the interest.

Respondent-management filed written reply, pleading that the letter dated 14.05.2007 has no relevancy and as per Rule 7 of the 'Gramin Dak Sewak'(Conduct and Engagement)Rules 2011, the employee is only entitled to 20 paid

leaves which cannot be accumulated and as such, the workman is not entitled to any amount by way of leave encashment.

Surender Kumar, workman appeared in the witness-box and filed his affidavit.

I have heard. Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management and perused the file carefully.

Sh. R.P. Mehra, counsel for the workman has referred to letter dated 14.05.2007 to contend that the workman is entitled to leave encashment. This letter appears in All India Service Law Journal XI 2007 and it read as follow:-

“The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006.”

Its bare perusal shows that leave encashment was enhanced from 120 days to 300 days and it was not provided that it can be got at any time of the service.

The workman himself claimed to be a ‘Gramin Dak Sewak’ and being so, he is governed by the ‘Gramin Dak Sewak’(Conduct and Regularization)Rules 2011 and Rule 7 deals with the leave and it read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

- (a) Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or
- (b) Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.

Thus, this rule provides that a Sewak can be granted paid leave of 20 days in a year without accumulation. This rule do not provide for any leave encashment and only gives the liberty to the employee to avail paid leave for 20 days in a year which cannot be accumulated. In view of this specific rule which is applicable to the service of the workman, he is not entitled to any amount by way of leave encashment;and the letter dated 14.05.2007 reproduced above, has no application to the present case.

In result, this application of the workman is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ. 1186.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल ऑफिस हरियाणा सर्किल एंड सुपरिनेन्डेंट ऑफ आफिसेस कुरुक्षेत्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2,चण्डीगढ़ के पंचाट (संदर्भ एलसीए सं. 297 / 2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025 / 03 / 2016—आईआर (डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1186.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 297/2013) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief Post Master General Haryana Circle and Superintendent of Post Offices Kurukshetra and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present:** Sri KEWAL KRISHAN, Presiding Officer.**LCA No.297/2013****Registered on 25.9.2013**

Sh. Sewa Ram alias Sewa Singh Sweeper,
Office of the Superintendent of Post Offices,
Kurukshetra, Division Kurukshetra.

...Petitioner

Versus

1. The Chief Post Master General Office Haryana Circle Ambala.
2. The Superintendent of Post Offices Kurukshetra, Division Kurukshetra. ...Respondents

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 26.04.2016

Sh. Sewa Singh has filed this claim application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'); on the averments that he was appointed as Sweeper about six or seven years ago by the respondents. He is entitled to 'bonus' and the Government has already issued an instruction vide letter dated 16.03.1994 to disburse the bonus immediately. That the workman was not paid bonus by the department.

Respondent-management filed written reply controverting the averments and even denied that claimant was appointed as Sweeper and he is not entitled to receive any payment on account of 'Bonus'.

In support of his case, respondent-management has examined Sh. Ishwar Chan, who filed his affidavit reiterating the stand of respondent-management. However the workman did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management and perused the file.

It may be added at the outset that despite being asked about the relevant rules and regulations relating to 'Bonus' verbally, counsel for the respondent-management did not produce the same. However, it may be submitted that 'Bonus' is determined from year to year by the department by issuing separate letters. Such letter dated 01.10.2010(Annexure R-I) has been placed on the file. Vide this letter, 'Bonus' was payable to the employees of Group-'D', Group-'C' and non-gazetted Group-'B' employees as well to casual labourers who have been given "temporary status". According to the workman, he was appointed as Sweeper by the respondent-management and this fact is denied by the respondent-management in his written statement. The workman did not lead any evidence to prove this fact that he was given regular employment by the respondent-management and therefore, he cannot claim any amount by way of 'Bonus', which is applicable only to the above such employees. Though, the respondent-management has denied the relationship but Sh. Ishwar Chand while appearing in the witness-box, has admitted that workman is a contingency paid employee and not a regular employee. The workman was engaged for some days to perform the work of Sweeper and paid out of contingency fund and he could not claim parity with the regular employees; and as such, he is not entitled to claim any 'Bonus'.

In the above circumstances, there is no merit in the case and it is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ. 1187.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुपरिटेन्डेंट ऑफ पोस्ट आफिसेस कुरुक्षेत्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ एलसीए सं. 14 / 2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42025 / 03 / 2016—आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1187.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D LCA No. 14/2015) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Superintendent of Post Offices Kurukshetra and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer.

LCA No.14/2015

Registered on 8.5.2015

Sh. Surender Singh

S/o Sh. Parash Ram

R/o Village and Post Office Pehowa,

Tehsil Pehowa,

District Kurukshetra.

...Petitioner

Versus

The Superintendent of Post Offices Kurukshetra,
Division Kurukshetra.

...Respondent

APPEARANCES

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 26.04.2016

Sh. Surender Kumar has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'); pleading that he was appointed as Gramin Dak Sewak on 08.10.1980 and after 33 years of service, he was selected as MTS in September 2013. That as per rules and regulations of the respondent-management, he is not entitled to any gratuity or leave encashment. That this Court can grant the gratuity under the 3rd Schedule of the Act. He has claimed Rs.2,09,856/- by way of gratuity.

Respondent-management filed written reply, pleading that the services of the workman comes under the purview of Postal Gramin Dak Sewak(Conduct and Engagement)Rules 2011; whereby the gratuity is payable only on the termination of the service of the employee. The services of the workman were never terminated and on his promotion, he was paid severance allowance of Rs.48,000/- and he was not entitled to any amount by way of gratuity.

In support of his case, Sh. Surender Kumar, workman appeared in the witness-box and filed his affidavit supporting his case as set out in the claim statement.

On the other hand, the management did not lead any evidence.

It was contended by Sh. R.P. Mehra that the workman served for 33 years as E.D.A. and he was not paid any gratuity for the service rendered by him and therefore, he is entitled to payment of gratuity. It may be added that the

workman has been claiming gratuity under Section 7(4) of the Payment of Gratuity Act and Section '3' of the Act envisages that the provisions of the Act will be administered by the Controlling Authority and it read as follow:-

"Controlling Authority-The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas."

Section 14 of the Act makes the provisions of the Act as mandatory and it read as follow:-

Act to override other enactments, etc-The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act."

Thus, in view of the provisions of the payment of Gratuity Act, question involved is to be decided by the 'Controlling Authority' appointed under the Act and this Court cannot consider the controversy raised by the workman.

In result the application of the workman is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ. 1188.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एनएचपीसी एंड अर्डर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चांडीगढ़ के पंचाट (संदर्भ सं. 242/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42012/149/2011-आईआर (डीयू)]

पी. के. वेनुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1188.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 242/2012) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the NHPC and their workman, which was received by the Central Government on 06.06.2016.

[No. L-42012/149/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer.

Case No. I.D. No. 242/2012

Registered on 27.07.2012

Sh. Tej Singh,
S/o Sh. Maya Ram,
R/o Village Kuther,
P.O. Chachyout, Att (Gohar),
District Mandi(HP).

...Petitioner

Versus

4. The General Manager,
NHPC, 2nd Stage,
VPO Nagwain, Sub-Tehsil Aut,
Distt. Mandi(HP).
5. The Director Himachal,
Joint Venture, Parbati,
HE Project, Lot PB-2,
Thela (Bhunder),
Tehsil and Distt. Kullu(HP).

...Respondents

APPEARANCES

For the workman : Sh. Manoj Dhiman, Adv.

For the Management : Sh. V.K. Gupta for Resp. No.1.

Smt. Hem Lata for Resp. No.2

AWARD

Passed on : 05.04.2016

Vide Order No.L-42012/149/2011-IR(DU), dated 06.07.2012 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the demand of Sh. Tej Singh S/o Sh. Maya Ram, Vill. Kuther, PO Chailchowk, Tehsil Chachiot, Distt. Mandi(HP) against the management of Himachal Pradesh Joint Venture Parbati HE Project, Thela Distt. Kullu(HP) in retrenching the services w.e.f. 18/10/2010 is just valid and legal? If so, what relief to the workman is entitled for and what directions are necessary in the matter?”

In response to the notice, the workman appeared and submitted statement of claim, pleading that respondent No.1 was constructing Dam and engaged respondent No.2 as contractor for the execution of the work at the project. That respondent No.2 appointed the workman as Driver w.e.f. 5.3.2003 and last paid salary was of Rs.16,000/- per month.

It is pleaded that respondent No.2 retrenched the services of the workman on 18.10.2010 without service of any notice or payment of compensation. It is further pleaded that signatures of some of the employees were taken on blank paper and the fact of ‘lay off’ was not brought to the notice of the workman or of respondent No.1. That respondent No.1 and 2 has engaged numerous workers from other contracts for the execution work at the site. Since the workman was retrenched illegally, he be reinstated in service.

Respondent No.1 filed written statement and pleaded that it has given a contract for the “Construction of Civil and Hydro-mechanical work of Head Race Tunnel and Associated Works of Parbati HE Project to respondent No.2. Workman was engaged by respondent No.2. That the workman was not retrenched on 18.10.2010. It is pleaded that HJV Workers Union(CITU) and management of respondent No.2 entered into negotiations and settled the matter amicably on 14.7.2011 and agreed to make payments to the workers and the last day of work was considered as 30.04.2011. It did not engage any other worker at the site.

Respondent No.2 filed separate written statement, stating that the workman was engaged as Driver at Adit-I site and work was completed in September, 2010 and further pleaded that a settlement was affected between the Workers Union and the management and 192 workers out of total 196 workers were paid retrenchment benefits except the present workmen. That the services of the workmen were retrenched in view of the settlement dated 26.6.2011.

Parties were given opportunity to lead its evidence.

Sh. Tej Singh, workman appeared in the witness-box and filed his affidavit, reiterating the stand as taken in his statement of claim.

On the other hand, respondent No.2 has examined Sh. Vinay Walia, who filed his affidavit supporting the case of respondent No.2.

I have heard Sh. R.S. Dhiman for the workman, Sh. V.K. Gupta for Resp. No.1 and Smt. Hem Lata for Resp. No.2 and perused the file carefully.

The admitted facts are that respondent No.1 had given a contract to respondent No.2 for Construction of Civil and Hydro-mechanical work and it was respondent No.2 who engaged the workman as Driver on 5.3.2003. Though the workman has pleaded that his services were ‘retrenched’ on 18.10.2010, but in the affidavit, he has given the date of his retrenchment as 30.6.2011. Therefore, it is to be taken that his services were disengaged on 30.6.2011. A memorandum of settlement dated 26.6.2011(Annexure R-1) has been placed on file vide which settlement was affected between the management of respondent No.2 and workers union and it was agreed to pay the salary and allowances to the workmen. Again a chart has been placed on file showing that a sum of Rs.98,989/- was payable to the workman.

Though, the workman has admitted that there was Union of workers but it is not proved that he was a member of the CITU with whom the settlement was affected.

As per Section 18 of the Act, settlements arrived at between the employer and the workmen are binding on the parties. In the present case, the settlement was affected between the Office Bearers of the CITU and the management and, as stated above, nothing has come on the file that workman was a member of the said Workers Union and therefore, the said settlement is not binding on the workman.

Again, as per settlement dated 26.6.2011(Annexure R-1), the settled amount was to be disbursed within six months. There is nothing on the file that the amount was ever offered to the workman during this period and in the circumstances, the settlement if any affected, came to an end and is not binding on the workman as per Section 19 of the Act, which inter alia provides that the settlement shall be binding for such period as is agreed upon, and if no such period is agreed upon, for a period of six months. Therefore, respondent No.2 cannot drive any benefit from the settlement dated 26.6.2011 (Annexure R-1). Thus, the workman was retrenched without service of notice or payment of retrenchment compensation. Therefore, the retrenchment of the workman is not legal.

There is no denial of the fact that the workman was appointed as a Driver on 5.3.2003 and his services were 'retrenched' on 30.6.2011, as deposed by him in his affidavit. Thus, he worked for a period of more than 8 years. As per the Section 25-F of the Act, the workman who is to be retrenched, is to be given one month notice in writing or be paid wages for the period of notice and is also to be paid compensation equivalent to 15 days for average pay for every completed year of continuous service. The workman has pleaded that he was getting a salary of Rs.16,000/- per month but did not produce any document to prove his exact salary. Since the work of respondent No.2 has been stopped, workman is to be paid compensation only and considering the totality of the circumstances and by doing some guess work, he is found entitled to a compensation of Rs.3 lacks which he shall recover from the respondents jointly and severely as respondent No.1 was admittedly the Principal employer.

In result, it is held that the retrenchment of the workman was illegal and he is entitled to get a sum of Rs.3 lacks from the respondents jointly and severely. If respondent No.1 pay the amount, he is at liberty to recover the same from respondent No.2. The amount of compensation be paid within 3 months of the publication of award failing which the workman shall be entitled to get interest @ 9% per annum on the awarded amount from the date of the award till realization.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ. 1189—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एनएचपीसी एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2,चंडीगढ़ के पंचाट (संदर्भ सं. 240/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-42012/150/2011-आईआर (डीयू)]

पी. के. वेनुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O. 1189.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 240/2012) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the NHPC and Others their workman, which was received by the Central Government on 06.06.2016.

[No. L-42012/150/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Present: Sri KEWAL KRISHAN, Presiding Officer

Case No. LD. No.240/2012

Registered on 10.4.2012

Sh. Chaman Lal-II,
S/o Sh. Durga Dass,
R/o Village Chakgohar,
P.O. Bhagroty, Tehsil Sadar,
District Mandi (HP).

...Petitioner

Versus

3. The General Manager, NHPC,
2nd Stage, VPO Nagwain,
Sub-Tehsil Aut,
Distt. Mandi(HP).

4. The Director Himachal, Joint Venture,
Parbati, HE Project, Lot PB-2,
Thela (Bhunder),
Tehsil and Distt.
Kullu (HP).

...Respondents

APPEARANCES

For the workman : Sh. Manoj Dhiman, Adv.

For the Management : Sh. V.K. Gupta for Resp. No.1.

Smt. Hem Lata for Resp. No. 2

AWARD

Passed on : 05.04.2016

Vide Order No.L-42012/150/2011-IR(DU), dated 14.03.2012 the Central Government in exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the demand of Sh. Chaman Lal S/o Sh. Durga Dass, Mandi(HP) against the management of Himachal Pradesh Joint Venture Parbati HE Project, Thela Distt. Kullu(HP) in retrenching the services w.e.f. 18.10.2010 is legal & just? What relief the workman is entitled to?”

In response to the notice, the workman appeared and submitted statement of claim, pleading that respondent No.1 was constructing Dam and engaged respondent No.2 as contractor for the execution of the work at the project. That respondent No.2 appointed the workman as Driver w.e.f. 23.6.2003 and last paid salary was of Rs.16,000/- per month.

It is pleaded that respondent No.2 retrenched the services of the workman on 18.10.2010 without service of any notice or payment of compensation. It is further pleaded that signatures of some of the employees were taken on blank paper and the fact of ‘lay off’ was not brought to the notice of the workman or of respondent No.1. That respondent No.1 and 2 has engaged numerous workers from other contracts for the execution work at the site. Since the workman was retrenched illegally, he be reinstated in service.

Respondent No.1 filed written statement and pleaded that it has given a contract for the “Construction of Civil and Hydro-mechanical work of Head Race Tunnel and Associated Works of Parbati HE Project to respondent No.2. Workman was engaged by respondent No.2. That the workman was not retrenched on 18.10.2010. It is pleaded that HJV Workers Union(CITU) and management of respondent No.2 entered into negotiations and settled the matter amicably on 14.7.2011 and agreed to make payments to the workers and the last day of work was considered as 30.04.2011. It did not engage any other worker at the site.

Respondent No. 2 filed separate written statement, stating that the workman was engaged as Driver at Adit-I site and work was completed in September, 2010 and further pleaded that a settlement was affected between the Workers Union and the management and 192 workers out of total 196 workers were paid retrenchment benefits except the present workmen. That the services of the workmen were retrenched in view of the settlement dated 26.6.2011.

Parties were given opportunity to lead its evidence.

Sh. Chaman Lal, workman appeared in the witness-box and filed his affidavit, reiterating the stand as taken in his statement of claim.

On the other hand, respondent No.2 has examined Sh. Vinay Walia, who filed his affidavit supporting the case of respondent No. 2.

I have heard Sh. R.S. Dhiman for the workman, Sh. V.K. Gupta for Resp. No.1 and Smt. Hem Lata for Resp. No.2 and perused the file carefully.

The admitted facts are that respondent No.1 had given a contract to respondent No.2 for Construction of Civil and Hydro-mechanical work and it was respondent No.2 who engaged the workman as Driver on 23.6.2003. Though the workman has pleaded that his services were 'retrenched' on 18.10.2010, but in the affidavit, he has given the date of his retrenchment as 30.6.2011. Therefore, it is to be taken that his services were disengaged on 30.6.2011. A memorandum of settlement dated 26.6.2011(Annexure R-1) has been placed on file vide which settlement was affected between the management of respondent No.2 and workers union and it was agreed to pay the salary and allowances to the workmen. Again a chart has been placed on file showing that a sum of Rs.98,989/- was payable to the workman.

Though, the workman has admitted that there was Union of workers but it is not proved that he was a member of the CITU with whom the settlement was affected.

As per Section 18 of the Act, settlements arrived at between the employer and the workmen are binding on the parties. In the present case, the settlement was affected between the Office Bearers of the CITU and the management and, as stated above, nothing has come on the file that workman was a member of the said Workers Union and therefore, the said settlement is not binding on the workman.

Again, as per settlement dated 26.6.2011(Annexure R-1), the settled amount was to be disbursed within six months. There is nothing on the file that the amount was ever offered to the workman during this period and in the circumstances, the settlement if any affected, came to an end and is not binding on the workman as per Section 19 of the Act, which inter alia provides that the settlement shall be binding for such period as is agreed upon, and if no such period is agreed upon, for a period of six months. Therefore, respondent No.2 cannot drive any benefit from the settlement dated 26.6.2011(Annexure R-1). Thus, the workman was retrenched without service of notice or payment of retrenchment compensation. Therefore, the retrenchment of the workman is not legal.

There is no denial of the fact that the workman was appointed as a Driver on 23.6.2003 and his services were 'retrenched' on 30.6.2011, as deposed by him in his affidavit. Thus, he worked for a period of more than 8 years. As per the Section 25-F of the Act, the workman who is to be retrenched, is to be given one month notice in writing or be paid wages for the period of notice and is also to be paid compensation equivalent to 15 days for average pay for every completed year of continuous service. The workman has pleaded that he was getting a salary of Rs.16,000/- per month but did not produce any document to prove his exact salary. Since the work of respondent No.2 has been stopped, workman is to be paid compensation only and considering the totality of the circumstances and by doing some guess work, he is found entitled to a compensation of Rs.3 lacks which he shall recover from the respondents jointly and severely as respondent No.1 was admittedly the Principal employer.

In result, it is held that the retrenchment of the workman was illegal and he is entitled to get a sum of Rs.3 lacks from the respondents jointly and severely. If respondent No.1 pay the amount, he is at liberty to recover the same from respondent No.2. The amount of compensation be paid within 3 months of the publication of award failing which the workman shall be entitled to get interest @ 9% per annum on the awarded amount from the date of the award till realization.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 6 जून, 2016

का.आ.1190.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन.एच.पी.सी.एंड अर्दस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, 2, चंडीगढ़ के पंचाट (संदर्भ सं. 238/2012, को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2016 को प्राप्त हुआ था।

[सं. एल-42012/148/2011-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th June, 2016

S.O.1190.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**I.D No.238/2012**) of the Central Government Industrial Tribunal-cum-Labour Court No.2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the NHPC and Others and their workman, which was received by the Central Government on 06/06/2016.

[No. L-42012/148/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No.238/2012

Registered on 10.4.2012

Sh. Ram Chander, S/o Sh. Kanshi Ram, R/o Village Gharoun, P.O. Segali(VIA), Tehsil Sadar, District Mandi(HP)

....Petitioner

Versus

1. The General Manager, NHPC, 2nd Stage, VPO Nagwain, Sub-Tehsil Aut, Distt. Mandi(HP).
2. The Director Himachal, Joint Venture, Parbati, HE Project, Lot PB-2, Thela(Bhunder), Tehsil and Distt. Kullu(HP).

....Respondents

APPEARANCES

For the workman	:	Sh. Manoj Dhiman, Adv.
For the Management	:	Sh. V.K. Gupta for Resp. No.1.
		Smt. Hem Lata for Resp. No.2

AWARD

Passed on:-05.04.2016

Vide Order No.L-42012/148/2011-IR(DU), dated 14.03.2012 the Central Government in exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the demand of Sh. Ram Chander S/o Sh. Kanshi Ram, Mandi(HP) against the management of Himachal Pradesh Joint Venture Parbati HE Project, Thela Distt. Kullu(HP) in retrenching the services w.e.f. 18.10.2010 is just valid and legal? What relief the workman is entitled to?”

In response to the notice, the workman appeared and submitted statement of claim, pleading that respondent No.1 was constructing Dam and engaged respondent No.2 as contractor for the execution of the work at the

project. That respondent No.2 appointed the workman as Senior Supervisor w.e.f. 11.03.2004 and last paid salary was of Rs.18,000/- per month.

It is pleaded that respondent No.2 retrenched the services of the workman on 18.10.2010 without service of any notice or payment of compensation. It is further pleaded that signatures of some of the employees were taken on blank paper and the fact of 'lay off' was not brought to the notice of the workman or of respondent No.1. That respondent No.1 and 2 has engaged numerous workers from other contracts for the execution work at the site. Since the workman was retrenched illegally, he be reinstated in service.

Respondent No.1 filed written statement and pleaded that it has given a contract for the "Construction of Civil and Hydro-mechanical work of Head Race Tunnel and Associated Works" of Parbati HE Project to respondent No.2. Workman was engaged by respondent No.2. That the workman was not retrenched on 18.10.2010. It is pleaded that HJV Workers Union(CITU) and management of respondent No.2 entered into negotiations and settled the matter amicably on 14.7.2011 and agreed to make payments to the workers and the last day of work was considered as 30.04.2011. It did not engage any other worker at the site.

Respondent No.2 filed separate written statement, stating that the workman was engaged as Senior Supervisor at Adit-I site and work was completed in September, 2010 and further pleaded that a settlement was affected between the Workers Union and the management and 192 workers out of total 196 workers were paid retrenchment benefits except the present workmen. That the services of the workmen were retrenched in view of the settlement dated 26.6.2011.

Parties were given opportunity to lead its evidence.

Sh. Ram Chander, workman appeared in the witness-box and filed his affidavit, reiterating the stand as taken in his statement of claim.

On the other hand, respondent No.2 has examined Sh. Vinay Walia, who filed his affidavit supporting the case of respondent No.2.

I have heard Sh. R.S. Dhiman for the workman, Sh. V.K. Gupta for Resp. No.1 and Smt. Hem Lata for Resp. No.2 and perused the file carefully.

The admitted facts are that respondent No.1 had given a contract to respondent No.2 for Construction of Civil and Hydro-mechanical work and it was respondent No.2 who engaged the workman as Senior Supervisor on 11.3.2004. Though the workman has pleaded that his services were 'retrenched' on 18.10.2010, but in the affidavit, he has given the date of his retrenchment as 30.6.2011. Therefore, it is to be taken that his services were disengaged on 30.6.2011. A memorandum of settlement dated 26.6.2011(Annexure R-1) has been placed on file vide which settlement was affected between the management of respondent No.2 and workers union and it was agreed to pay the salary and allowances to the workmen. Again a chart has been placed on file showing that a sum of Rs.1,12,399/- was payable to the workman.

Though, the workman has admitted that there was Union of workers but it is not proved that he was a member of the CITU with whom the settlement was affected.

As per Section 18 of the Act, settlements arrived at between the employer and the workmen are binding on the parties. In the present case, the settlement was affected between the Office Bearers of the CITU and the management and, as stated above, nothing has come on the file that workman was a member of the said Workers Union and therefore, the said settlement is not binding on the workman.

Again, as per settlement dated 26.6.2011(Annexure R-1), the settled amount was to be disbursed within six months. There is nothing on the file that the amount was ever offered to the workman during this period and in the circumstances, the settlement if any affected, came to an end and is not binding on the workman as per Section 19 of the Act, which inter alia provides that the settlement shall be binding for such period as is agreed upon, and if no such period is agreed upon, for a period of six months. Therefore, respondent No.2 cannot drive any benefit from the settlement dated 26.6.2011(Annexure R-1). Thus, the workman was retrenched without service of notice or payment of retrenchment compensation. Therefore, the retrenchment of the workman is not legal.

There is no denial of the fact that the workman was appointed as a Senior Supervisor on 11.03.2004 and his services were 'retrenched' on 30.6.2011, as deposed by him in his affidavit. Thus, he worked for a period of more than 8 years. As per the Section 25-F of the Act, the workman who is to be retrenched, is to be given one month notice in writing or be paid wages for the period of notice and is also to be paid compensation equivalent to 15 days for average pay for every completed year of continuous service. The workman has pleaded that he was getting a salary of Rs.18,000/- per month but did not produce any document to prove his exact salary. Since the work of respondent No.2 has been stopped, workman is to be paid compensation only and considering the totality of the circumstances and by doing some guess work, he is

found entitled to a compensation of Rs.3 lacks which he shall recover from the respondents jointly and severally as respondent No.1 was admittedly the Principal employer.

In result, it is held that the retrenchment of the workman was illegal and he is entitled to get a sum of Rs.3 lacks from the respondents jointly and severally. If respondent No.1 pay the amount, he is at liberty to recover the same from respondent No.2. The amount of compensation be paid within 3 months of the publication of award failing which the workman shall be entitled to get interest @ 9% per annum on the awarded amount from the date of the award till realization.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 7 जून, 2016

का.आ.1191.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कम्बाटा एविएशन प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/2 ऑफ 2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/6/2016 को प्राप्त हुआ था।

[सं. एल-20013/02/2016-आई आर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th June, 2016

S.O.1191.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial.Tribunal-cum-Labour Court No. 2, Mumbai (Field directly by workman u/s 2A(2) (Ref. No. 2/2 of 2016) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Cambata Aviation Pvt. Ltd. and their workmen, which was received by the Central Government on 7/6/2016.

[No. L-20013/02/2016-IR (CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT :

M. V. DESHPANDE, Presiding Officer

APPLN. (REFERENCE) No. CGIT-2/2 of 2016

EMPLOYERS IN RELATION TO THE MANAGEMENT OF CAMBATA AVIATION PVT. LTD.

Cambata Aviation Pvt. Ltd.

Ascot Centre, Room no.208

Opp. ITC Grand Maratha

Sahar Road

Andheri (E)

Mumbai- 400 099.

AND

THEIR WORKMEN

Shri Dattatray Baburao Tembhekar

Room No.25, Utkarsha CHS Ltd.

Building No.15, P.M.G.P. Colony,

Andheri (E)

Mumbai- 400 093.

APPEARANCES:

For the Employer : No appearance.

For the Workman : Mr. Iqbal A. Siddiqui, Advocate.

Mumbai, dated the 16th May, 2016.

AWARD

1. This Reference was filed directly by Shri Dattatray B. Tembhekar, Applicant/ Workman on 17/03/2016 under Section 2-A (2) of the Industrial Disputes Act, 1947 in view of the amendment in the Act from 15/09/2010. According to the Applicant/ Workman the management of Cambatta Aviation Pvt. Ltd. has abruptly terminated the services of the applicant on 14/07/2015 in violation of the principles of natural justice. The workman was suspended vide order dated 9/9/2014 after issuing charge sheet cum enquiry notice. However no enquiry was conducted before terminating his services. Therefore the workman prayed to set aside the termination order dated 14/7/2015 and direct the management to reinstate him in service with back wages and continuity of service.

2. The matter was fixed on 27/05/2016 and accordingly notices were issued to the parties. However on 06.05.2016, workman vide application Exhibit-5 prayed for urgent hearing. Orders were passed on Ex-5 for serving notice on the other side. Accordingly the matter was taken on board on 16/05/2016. Workman filed application dated 16/5/2016 (Ex-6) stating that the management vide their letter dated 13/5/2016 has revoked the termination order of the workman w.e.f. the date of termination and prayed to pass orders/Award. Since none appeared on behalf of the management, 'no say on Ex-6' order was passed.

3. In view of the said application, there remains no dispute for adjudication as the claim of the workman is accepted by the management. In the circumstances, Reference deserves to be disposed of. Hence the order:

ORDER

Reference stands disposed of.

Date 16.05.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 7 जून, 2016

का.आ.1192.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कम्बाटा एविएशन प्राईवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2 मुम्बई के पंचाट (संदर्भ संख्या 2/1 ऑफ 2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/6/2016 को प्राप्त हुआ था।

[सं. एल-20013/2/2016-आई आर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th June, 2016

S.O.1192.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Field directly by workman u/s 2A(2) (Ref. No. 2/1 of 2016) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Cambatta Aviation Pvt. Ltd and their workmen, which was received by the Central Government on 7/6/2016.

[No. L-20013/2/2016-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT**

M.V. DESHPANDE, Presiding Officer

APPLN. (REFERENCE) NO.CGIT-2/1 of 2016**EMPLOYERS IN RELATION TO THE MANAGEMENT OF CAMBATA AVIATION PVT. LTD.**

Cambata Aviation Pvt. Ltd.
Ascot Centre, Room no.208
Opp. ITC Grand Maratha
Sahar Road
Andheri (E)
Mumbai : 400 099.

AND

THEIR WORKMEN
Shri Chandrakant Dashrath Bhalerao
Chabukswar Chawl
Dewoolwadi
Chakala, Sahar Road
Andheri (E)
Mumbai : 400 099.

APPEARANCES:

For the Employer	:	No appearance
For the Workman	:	Mr. Iqbal A. Siddiqui, Advocate

Mumbai, dated the 16th May, 2016

AWARD

1. This Reference was filed directly by Shri Chandrakant Dashrath Bhalerao, Applicant/ Workman on 17/03/2016 under Section 2-A (2) of the Industrial Disputes Act, 1947 in view of the amendment in the Act from 15/09/2010.
2. According to the Applicant/ Workman the management of Cambatta Aviation Pvt. Ltd. has abruptly terminated the services of the applicant/ workman on 14.07.2015 in violation of the principles of natural justice. The workman was suspended vide order dated 9/9/2014 after issuing charge sheet cum enquiry notice. However no enquiry was conducted before terminating his services. Therefore the workman prayed to set aside the termination order dated 14/7/2015 and direct the management to reinstate him in service with back wages and continuity of service.
3. The matter was fixed on 27/05/2016 and accordingly notices were issued to the parties. However on 06/05/2016, workman vide application Exhibit-5 prayed for urgent hearing. Orders were passed on Ex-5 for serving notice on the other side. Accordingly the matter was taken on board on 16/05/2016. Workman filed application dated 16/5/2016 (Ex-6) stating that the management vide their letter dated 13/5/2016 has revoked the termination order of the workman w.e.f. the date of termination and prayed to pass orders/Award. Since none appeared on behalf of the management, 'no say on Ex-6' order was passed.
4. In view of the said application, there remains no dispute for adjudication as the claim of the workman is accepted by the management. In the circumstances, Reference deserves to be disposed of. Hence the order:

ORDER

Reference stands disposed of

Date 16.05.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 7 जून, 2016

का.आ.1193— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कम्मबाटा एविएशन प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/3 ऑफ 2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/06/2016 को प्राप्त हुआ था।

[सं. एल—20013/2/2016—आई आर (सीएम—I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th June, 2016

S.O.1193.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Field directly by workman u/s 2A(2) (Ref. No. 2/3 of 2016) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Cambata Aviation Pvt. Ltd. and their workmen, which was received by the Central Government on 7/06/2016.

[No. L-20013/2/2016-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, MUMBAI

PRESENT

M.V. DESHPANDE, Presiding Officer

APPLN. (REFERENCE) NO.CGIT-2/3 of 2016

EMPLOYERS IN RELATION TO THE MANAGEMENT OF CAMBATA AVIATION PVT. LTD.

Cambata Aviation Pvt. Ltd.
Ascot Centre, Room no.208
Opp. ITC Grand Maratha
Sahar Road
Andheri (E)
Mumbai -400 099.

AND

THEIR WORKMEN

Shri Pradeep Rajan Menon
Crystal Green, Flat No. 9,
Sector-2, Plot No. 114
Charkop, Kandivali (W)
Mumbai-400 067.

APPEARANCES:

For the Employer	:	No appearance
For the Workman	:	Mr. Iqbal A. Siddiqui, Advocate Mumbai, dated the 16 th May, 2016

AWARD

1. This Reference was filed directly by Shri Pradeep Rajan Menon, Applicant/ Workman on 17/03/2016 under Section 2-A (2) of the Industrial Disputes Act, 1947 in view of the amendment in the Act from 15/09/2010.
2. According to the Applicant/ Workman the management of Cambatta Aviation Pvt. Ltd. has abruptly terminated the services of the applicant/ workman on 14/7/2015 in violation of the principles of natural justice. The management terminated the services of the workman without show cause, charge sheet, inquiry prior to termination of his services. Therefore the workman prayed to set aside the termination order dated 14/7/2015 and direct the management to reinstate the workman in service with back wages and continuity of service.

3. The matter was fixed on 27/05/2016 and accordingly notices were issued to the parties. However on 06/05/2016, workman vide application Exhibit-5 prayed for urgent hearing. Orders were passed on Ex-5 for serving notice on the other side. Accordingly the matter was taken on board on 16/05/2016. Workman filed application dated 16/5/2016 (Ex-6) stating that the management vide their letter dated 13/5/2016 has revoked the termination order of the workman w.e.f. the date of termination and prayed to pass orders/Award. Since none appeared on behalf of the management, 'no say on Ex-6' order was passed.

4. In view of the said application, there remains no dispute for adjudication as the claim of the workman is accepted by the management. In the circumstances, Reference deserves to be disposed of. Hence the order:

ORDER

Reference stands disposed of.

Date 16.05.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 7 जून, 2016

का.आ.1194— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जेट एअरवेज (ई.) लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2 मुम्बई के पंचाट (संदर्भ संख्या 2/19 ऑफ 2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/6/2016 को प्राप्त हुआ था।

[सं. एल-11012/15/2005-आई आर (सीएम- I)]
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th June, 2016

S.O.1194.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Ref. No. 2/19 of 2010) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Jet Airways (I) Ltd. and their workmen, which was received by the Central Government on 7/6/2016.

[No. L-11012/15/2005-IR (CM- I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

M.V. DESHPANDE, Presiding Officer

REFERENCE NO.CGIT-2/19 of 2010

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. JET AIRWAYS (INDIA) LTD.

The General Manager
Jet Airways (I) Ltd.
S.M. Centre
Andheri-Kurla Road
Mumbai-400 059.

AND

THEIR WORKMEN

Capt. Cedric D'Silva
19, Colombia
St. Dominic Road
Bandra (W)
Mumbai-400 050.

APPEARANCES:

For the Employer	:	Mr. Abhay Kulkarni Mrs. Pooja Kulkarni, Advocates
For the Workmen	:	Mr. Mohan Bir Singh, Advocate.

Mumbai, dated the 4th April, 2016

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-11012/15/2005-IR (CM-I), dated 10.02.2010 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“(i) Whether on the facts and circumstances Cedric D’Silva is a workman and if so whether his termination is illegal and consequently what relief he is entitled to?”

2. After receipt of the reference, both parties were served with notice. In response to the notice, Second party workman filed his Statement of Claim at Ex-6. The first party resisted the statement of claim of the workman by filing their Written Statement vide Ex-9. Issues were framed at Ex-10. Thereafter matter was pending for recording evidence of second party workman.

3. Meanwhile Workman filed application at Ex-42 for permitting him to withdraw the present Reference. Advocate for the management endorsed her say on Ex-42 giving no objection. Matter was fixed for passing orders on Ex-42 on 5/4/2016. Vide application Ex-43, Advocate for the second party workman prayed to take the matter on 04.04.2016. As per orders passed on Ex-43, matter was taken on today’s board i.e. 04/04/2016 and Orders were passed on Ex-42. As the Second Party workman does not want to pursue this matter, the Reference is disposed of. Hence the order:

ORDER

Reference stands disposed of as withdrawn.

Date 4.04.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 8 जून, 2016

का.आ.1195.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार और नेशनल इंडस्ट्रीजल एंड एक्सेप्लोयर्स के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 35/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8/6/2016 को प्राप्त हुआ था।

[सं. एल-30012/72/1998-आई आर (सी-1)]
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th June, 2016

S.O.1195.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. ONGC and their workmen, received by the Central Government on 8/06/2016.

[No. L-30012/72/1998-IR (C-I)]
M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present:

Pramod Kumar Chaturvedi
Presiding Officer, CGIT cum labour Court,
Ahmedabad,
Dated 1st April, 2016

Reference: (CGITA) No-35/2012

The Junior General Manager,
ONGC Ltd.,
KDM Bhavan, Palavasna,
Mehasana.

... First Party

Vs.

General secretary,
Gujarat Mazdoor Panchayat,
Shramshakti, Opp. Prabhat Press,
Mirzapur Road, Ahmedabad. 380001

... Second Party

For the First Party : Shri K.V. Gadhia, Advocate
For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L – 30012/72/1998 – IR(C-I) dated 28.01.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Kya Gujarat Mazdoor Panchayat ki Mangkisuchi me diye gaye 47 thek karmkaroko ONGC ka siddha karmkar mana jaye tatha unhe niyamit karmkaro k samroop vetaanityadi diyajaye, nyay sangat hai? Yadi ha to, Sangatith Karmkar kis Rahat ke patra hai?”

2. This Reference dates back to 28.01.1999. Parties to the dispute where issued the Hearing Notice and same were served to the respective parties. Earlier above reference was pending before State Tribunal for adjudication. Since the Second party has not Filed Statement of Claims the State tribunal vide its Award dated 27.02.2002 dismissed the reference for default. Thereafter Second Party Union had filed Miscellaneous Application No. 2 of 2009 for Restoration of Main Reference. The said Restoration Application was delayed by 8 years and after delay condone, main restoration application acme to be allowed by the then Presiding Officer of the Hon’ble CGIT vide order dated 04.02.2011.

3. Since then Reference is pending for filling statement of claims by the Second Party. Despite giving many opportunities to the Second Party to filed the Statement of Claims, no statement of Claim file by the second party till date.

4. Original this reference is of 1999, being an old reference and the Second Party failed to file Statement of claim, therefore, this tribunal has no option but to dismiss the reference in default of the Second Party.

The reference is dismissed in default of the Second Party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जून, 2016

का.आ.1196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार और नेतृत्वीय संघरणों के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 72/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8/06/2016 प्राप्त हुआ था।

[सं. एल-30012/02/1997-आई आर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th June, 2016

S.O. 1196.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in Annexure, in the industrial dispute between the management of M/s. ONGC and their workmen, received by the Central Government on 08/06/2016.

[No. L-30012/02/1997-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 22nd April, 2016

Reference: (CGITA) No-72/2004

The Group General Manager (Projects),
O.N.G.C. Ltd.,
Avani Bhavan,
Chandkheda
Ahmedabad (Gujarat).
v/s

...First Party

Their Workmen
The General Secretary,
ONGC Employees Union,
175, Sun Rise Shopping Centre,
Opp. Raichandnagar,
Sabarmati, Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri K.V. Gadhia
For the Second Party : Shri A.N. Patel

AWARD

The Government of India/Ministry of Labour ,New Delhi by reference adjudication Order No. L-30012/02/97-(Coal-I) dated 18.03.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Oil and Natural Gas Corporation Ltd., Ahmedabad Project in denying absorption in the service of ONGC, Ahmedabad (Project) to contract workmen numbering 327 (as per list) where case espoused by ONGC Employees Union having been engaged in prohibited category through contractors after the notification no. L-23013/4/92 LW dated 08.09.1994 is legal & justified. If not to what relief the concerned workmen are entitled to and from which date?”

1. The Reference dates back to 18.03.1998. On 05.02.2013, 12 workmen out of 327 workmen withdrew from the reference. On 11.03.2013, again 5 workmen out of 327 withdrew from the reference. The said order of withdrawal was passed on the respective dates.
2. It is noteworthy that first party and second party have already filed their statement of claim (Ext. 10) and written statement (Ext. 33) on 14.10.2003. Second party did not express any willingness to lead evidence since the date of filing written statement (Ext. 33) by the first party and in the later dates, some of the workmen as said above moved applications for withdrawal and same were allowed. The conduct of the second party indicates that they are unwilling in the disposal of the reference and wanted to keep pending.
3. Since the second party has not been leading evidence since 14.10.2003 and has also not been responding since last three dates thus there is no justification to keep the reference pending in the hope that sometimes they will lead the evidence.
4. Thus the reference is dismissed in default of the remaining workmen of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जून, 2016

का.आ.1197.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एअर इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 136/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2016 को प्राप्त हुआ था।

[सं. एल-11012/08/2011-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th June, 2016

S.O.1197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 136/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in Annexure, in the industrial dispute between the management of M/s. Air India and their workmen, received by the Central Government on 08.06.2016.

[No. L-11012/08/2011-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 25th April, 2016

Reference: (CGITA) No-136/2012

The Station Manager,
Air India,
Fatehganj,
Vadodara(Gujarat)

...First Party

v/s

The President,
Gujarat Mazdoor Panchayat,
'Shram Shakti', Post Box No. 77, GOP,
Opp. Prabhat Press, Mirzapur Road,
Ahmedabad (Gujarat) – 380001

...Second Party

For the First Party : Shri P.S. Gogia

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-11012/8/2011-IR(CM-I) dated 05.09.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the Union, Gujarat Mazdoor Panchayat, Ahmedabad that the work should be provided to Shri Santosh Chalke, V.A. Shaikh, J.K. Rathod, I.D. Gohil, K.D. Parmar, B.D. Patil, R.Y. Shaikh, B.D. Rathod and S.D. Patanwadia as per the seniority is legal and justified? To what relief are the workmen concerned entitled?"

1. The reference dates back to 05.09.2012. The second party, The President, Gujarat Mazdoor Panchayat, Shram Shakti, Post Box No. 77, GPO, Opp. Prabhat Press, Mirzapur Road, Ahmedabad, was served by registered post but did

not respond to the notice by way of filing statement of claim despite being served on 07.05.2013. First Party appeared and filed the vakalatpatra Ext. 5 of his advocate Shri P.S. Gogia.

2. Thus it appears that second party is unwilling to prosecute the reference. Thus the tribunal has no option but to dismiss the reference in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जून, 2016

का.आ.1198.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओएनजीसी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 210/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2016 को प्राप्त हुआ था।

[सं. एल-30012/23/1997-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th June, 2016

S.O.1198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 210/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in Annexure, in the industrial dispute between the management of M/s. ONGC and their workmen, received by the Central Government on 08.06.2016.

[No. L-30012/23/1997-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 29th April, 2016

Reference: (CGITA) No. 210/2004

Reference: (ITC) No. 131/1999

1. The Member (Personnel) Now Director (Personnel),
ONGC Limited, Tel Bhavan, Dehradun.
2. The Regional Director now Executive Director,
ONGC Limited, WRBC, Makarpura Road,
Baroda – 09.
3. Group General Manager (projects)
ONGC Limited, Palavasana,
Mehsana

...First Party

Vs.

Its workmen employed under it
(Through ONGC Employees Union,
Mehsana Branch, Mehsana

...Second Party

For the First Party : Sh. K.V. Gadhia & Sh. M.K. Patel
For the Second Party : Sh. Kapoor

AWARD

The Government of India/ Ministry of Labour, New Delhi by reference adjudication Order No. L- 30012/23/97/IR-(C-I) dated: - 06/07/1999 referred the dispute for adjudication to the Industrial Tribunal Ahmedabad (Gujarat) in respect of the matter specified in the schedule

SCHEDEULE

“Whether the action of management of ONGC, Mehsana in not considering the appointment on promotion/upgradation of S/Shri G.M. Solanki, Y.M. Solanki, P.C. Pathan, M.S. Prajapati and Shri M.K. Chavda Helper Gd-III to the post of Asst. Technician (Production) and post of Asstt. Technician (ROM) is justified? If not, what relief the concerned workmen are entitled to?”

2. This reference dates back to 06/07/1999. Both the Parties appeared in the Reference. Second Party submitted the Statement of Claims on 06/09/2000. First Party also submitted Written Statement on 17/08/2001. Since then Second Party was given number of opportunities to lead evidence but he did not prefer to lead evidence. The case is very old one. Thus, it appears that, Second Party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the Reference in default of the Second Party.

The Reference is dismissed in default of the Second Party.

PRAMOD KUMAR CHATURVEDI, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1199.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 17/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/134/1999-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1199.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 17 of 2000) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/134/1999-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 17 of 2000

Employer in relation to the management of Swang Colliery of M/s. CCL

AND

Their workmen

Present: Shri R. K. Saran, Presiding Officer.

Appearances:

For the Employers : Shri N. M. Kumar Advocate

For the workman : Shri D. Mukherjee Advocate

State : Jharkhand Industry- Coal

Dated : 19.04.2016

AWARD

By order No. L-20012/134/1999/IR (C-1) dated 20/12/1999, the Central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of Bihar Colliery Kamgar Union for the regularisation of shri Pashupati Mahato as Attendance Clerk /Magagine Clerk by the management of Kustore Area of M/s. BCCL is just, legal and justified? If so, to what relief the concerned workman is entitled and from which date?”

2. After receipt of the reference , both parties are noticed. Both parties appeared. But appearing for certain dates, Ld. Counsel for the workman/Sponsoring Union submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 37/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/21/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 37 of 1994) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/21/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of a reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 37 of 1994

Employer in relation to the management of Balihari Colliery of M/s. BCCL

AND

Their workmen

Present: Shri R. K. Saran, Presiding Officer.

Appearances:

For the Employers : Shri S. N. Ghosh, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 16.05.2016

AWARD

By order No. L-20012/21/1993-IR(C-1) dated 22/02/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Balihari Colliery of M/s Bharat Coking Coal Ltd. P.O. Kusunda, Dhanbad in not paying the wages in lieu of 93 days of rest to Shri A.P.Mtra, Ex-Compounder is justified? If not, to what relief the workman is entitled for ?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1201.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 38/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/44/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1201 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 38 of 2009) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/44/2009-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 38 of 2009

Employers in relation to the management of Amlo Project of M/s. CCL

AND

Their workmen

Present: Shri Rajan Kumar Saran, Presiding Officer

Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the workman : Shri U. N. Lall, Advocate

State : Jharkhand Industry- Coal

Dated : 12.05.2016

AWARD

By Order No.L-20012/44/2009 -IR -(CM-I), dated 23/06/2009, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDEULE

“Whether the demand of the Jharkhand Colliery Shramik Union from the management of Amlo Project of M/S CCL for regularization of Shri Raj Kumar Mahato cat-I to the post of Shoval Operator Grade -I/B in terms of promotion order effected through office order dated 09.03.2005 is justified and legal? (ii) To what relief is the workman concerned entitled?”

2. This Case is received from the Ministry of Labour on 13.07.2009. After receipt of reference, both parties are noticed. The workman files their written statement on 04.08.2009. After long delay the management files their written statement on 24.03.2011. One witness each has been examined by the either side. And document on behalf of the workman is marked as W-1 to W-7 And management's document marked as M-1 to M-9.

3. The case of the workman is that the concerned workman designated as Cat-I/B General Mazdoor since 1995. He is directed to get training by the competent authority and sent for training and being satisfied and issued a certificate,

that he was competent to work as shovel Operator Grade-I. Thereafter an Office order have been issued in which the concerned workman was promoted as Gr.I/B and also D as Shovel Operator. After promotion as Gr I/B Shovel Operator he was worked 20 month and increment was also provided by the management.

4. It is also submitted by the workman that after obtaining the certificate the workman started his job as Shovel Operator Gr-II vide office order dated 02/03.11.2005 . And he was demoted from Gr-I/B to Cat-I/B he was also promoted from Cat I/B to Cat-II and he was working four years on that post and increment was also granted to him. Thereafter the concerned workman demoted from Cat-II to I/B . Hence Industrial dispute arose for regularization.

5. On the other hand, the case of the management is that the concerned workman was appointed as Cat-I Mazdoor on 11.09.1995 and since then working at Amlo Project. He was recommended by the DPC of Amlo Project for promotion to the post of Shovel Operator Gr. I/B (Excavation Cadre) and after obtaining approval from General Manager promotion order was issued vide letter No. PO/(A)/PD/Prom/05/3282 dated 09.03.2005.

6. Thereafter functioning Union RCMS complained to the Chief Vigilance Office, CCL Ranchi , regarding irregularities in promotion order. The Dy G.M (P& IR) constituted an enquiry committee to examine and report about the irregularities committed by the officials of Amlo Project in promotion of Excavation Cadre. The enquiry Committee found irregularities with regard to promotion of Sri Raj Kumar Mahato and others and suggested to follow the cadre Scheme in promotion cases.

7. It is further submitted by the management that , on the basis of the report of enquiry committee the Dy. G.M (P&IR) cancel the promotion order of Sri Raj Kumar Mahato and other issued order No. 3282 dated 09.03.2005 and reverted back to their earlier post. Hence Sri Raj Kumar mahato reverted back from Shovel operator Gr. I/B to Cat-I . Thereafter Sr. Personnel Officer Amlo Project initiated the Departmental proceeding and examined before obtaining approval of the competent authority and found him guilty of the aforesaid lapses and minor penalty was awarded of censure upon the Officer.

8. Sri Raj Kumar Mahto was served a notice to appear before the DPC on 28.03.2009 for promotion to the post of Shovel Operator (T) Gr-D but he did not turn –up before the committee. Due to non-appearance before the committee his case was not considered for promotion as the new entry in the lower grade is a selection post. In reply of the aforesaid notice the union say that ID case is going on before ALC © Hazaribagh, hence Raj Kumar Mahto can not appear before DPC. In 2008 one notification was issued to apply for promotion to the post of Shovel Operator (T) Gr-D but he did not apply, nor submitted any document in support of his claim for promotion.

9. The Short point to be decided in the case , can the promoted person be reverted on the ground of irregularities or not. The case of the workman is that he was promoted , got training , worked for more than a year but subsequently his promotion was cancelled without giving any notice. Both side file document, the management admitted everything but submitted in the process of correction of its own mistake, it formed a committee at the intervention of CVC and after examining every thing, cancelled the promotion and called for DPC which was not attended by the present workman which is admitted by the workman in cross examination of WW-1 . Some part of Cross examination of Raj Kumar mahto (WW-1) is quoted below:-

Xxxxx

“In 2005 without seeing anything , I was given grade B, which was cancelled. For my promotion RCMS Union complained to CVC, After application to CVC the matter was enquired and promotion was cancelled.”

Xxxxx

10. Law is clear that in promotion Tribunal is slow to interfere, unless there is glaring defects. In this case the management corrected its own mistake and erring officer has been censured. Therefore I do not find any mistake of the management in cancelling the promotional order.

11. Considering the facts and circumstances of this case, I hold that the demand of the Jharkhand Colliery Shramik Union from the management of Amlo Project of M/S CCL for regularization of Shri Raj Kumar Mahato cat-I to the post of Shovel Operator Grade –I/B in terms of promotion order effected through office order dated 09.03.2005 is not justified. Hence he is not entitled to get any relief.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1202.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बोसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक

अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 40/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/54/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1202.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 40 of 1994) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/54/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 40 of 1994

Employer in relation to the management of Bastacolla Area of M/s. BCCL

AND

Their workmen

Present: Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand Industry : Coal

Dated : 13.05.2016

AWARD

By order No. L-20012/54/1993-IR(C-1) dated 04/03/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub -section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the union for the employment of Smt. Jira Baurin on account of the death of her late husband by the management of BCCL, Bastacolla Area, P.O-Jharia, Dist-Dhanbad is justified? If not, to what relief Smt. Jira Baurin is entitled ?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1203.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 51/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/97/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 51 of 1994) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/97/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 51 of 1994

Employer in relation to the management of Govindpur Area of M/s. BCCL

AND

Their workmen

Present: Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : D. K. Verma, Advocate

For the workman : None

State : Jharkhand Industry : Coal

Dated : 12.05.2016

AWARD

By order No. L-20012/97/1993-IR(C-1) dated 24/03/1994, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the General manager, Govindpur Area of M/s. BCCL, P.O. Sonardih, Dist. Dhanbad in dismissing sh. Kishore Shyamal shovel Operator w.e.f. 01.04.1992 is justified? If not, to what relief is the concerned workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1204.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 56/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/90/2011-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 56 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/90/2011-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/S 10 (1) (D) (2A) of I.D. Act, 1947

Reference: No. 56 of 2011

Employers in relation to the management of Sijua Area of M/s. BCCL

AND

Their workmen

Present: Shri Rajan Kumar Saran, Presiding Officer

Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the workman : Shri S. C. Gour, Rep.

State : Jharkhand

Industry : Coal

Dated : 06.05.2016

AWARD

By Order No.L-20012/90/2011 -IR (CM-I), dated.07/12/2011, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub -section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

“Whether the action of the management of Basudepur colliery of M/s. BCCL in not allowing Sri Bhagwan Das in duty / Keeping in abeyance the offer employment dt. 14/24.08.1998 till today on flimsy ground is fair and justified? To what relief the concerned workman is entitled to ?”

2. The case is received from the Ministry of Labour on 20.12.2011. After receipt of the reference, both parties are noticed. The sponsoring Union files their written statement on 09.04.2012. Thereafter the management files their written statement-cum-rejoinder on 28.05.2013. One witness on behalf of the management is examined. And document of Management is marked as M-1 to M-9 and document of workman is marked as W-1 to W-6.

3. The case of the workman is that the concerned workman Sri Bhagwan Das was offered employment under N.C.W.A-V on 24.8.1998 with posting at Basudepur Colliery under Sijua Area of M/s. BCCL. He joined his duties as piece rated Minor loader and worked upto 31.08.1998, but without assigning any reason, his appointment was kept in abeyance till date and neither the workman was placed under suspension nor any charge sheet issued to him .

4. It is further submitted by the workman that the management of BCCL prior to issue of offer of appointment to the concerned workman got his antecedents verified from the respective Distt of District administration and on full satisfaction, gave him offer of appointment to work as piece rated Miner Loader, but without any causes kept on abeyance the offer of appointment. Hence the Industrial Dispute arose.

5. On the other hand, the case of the management is that Shri Bhagwan Das was not the employee of the Basudepur Colliery, Shri Bhagwan Das S/o Sri Chatrabali Das presented himself as dependant son-in-law of Somrain Bai , Ex- Wagon Loader of Nichitpur Colliery for employment under the provision of 9.3.2. of NCWA. And on the basis of representation the management issued offer of employment on compassionate ground to Sri Bhagwan Das in place of Late Somrain Bai. Thereafter the management received complain against him that he is not related to late Somrain Bai in any way.

6. After receiving the complain, the offer of employment issued on compassionate gropund to Sri Bhagwan Das S/o Sri Chatrabli Das in place of late Somarain Bai was kept in abeyance vide this office order no. CGM/SA/PD/507 date 31.08.1998, and decided to re-examined the employment file and observed that Sri Bhagwan Das is son-in-law of late Somarin Bai.

7. It is further submitted by the management that the copy of police verification report from Supdt. Of police, Bilaspur, It is observed that the envelop through which police verification report from supdt. Of Police Bilaspur was sent to the project Officer , Nichitpur Colliery, it appears to be forged/fake as the registered post bearing Sl. No. 1726 dated 09.09. 1995 has stamped at Sijua Post Office, Dhanbad. The envelop is on India Government Service but it is stamped by public postage stamp of Rs. 7/- of post and telegraph instead of Govt. of India Ticket/Stamp. Beside this there are two postal stamp one of Sijua post office and other postal stamp is of Bansjora Post Office, Dhanbad but on the same time no postal stamp of Bilaspur was found on the envelop.

8. It also submitted by the management that after request to Suptd. of Police, Bilaspur (MP) vide letter No. CGM/SA/1556-98 dated 05/14.3.1998 to confirm as to whether letter No. 618/95 dated 03/04. 07.1995, addressed to the Project Officer Nichitpur Colliery was issued from the Office of Supdt. Of Police, Bilaspur (MP). Thereafter in reply by Addl. District Magistrate, Jangpur, Champa (MP) vide letter no. 388 dated 06.03.1999 had confirm that letter No. 618/95 dated 03/04.07.1995 addressed to the Project Officer Nichitpur Colliery was not issued from the Office of the Supdt. Of Police Bilaspur (MP) .

9. It is further informed that Sri Bhagwan Das S/o Chatrabali Das village Telua P.S –Srinarayanpur is an imposter. It was further informed that there is no village Telua in P.S- Srinarayanpur in the Bilaspur District. All report forwarded to vigilance Department for further investigation. Thereafter receipt of the report from the vigilance Department. Applicant Sri Bhagwan Das was not allowed to resume duty as he was trying to entered into the employment of the Govt. Company fraudulently by impersonating himself as son in-law of Late Somarin Bai.

10. The present case is of dependant employment of the applicant. Deceased workman is to get as dependant employment, in place of his relation but the relationship, documents which he filed were forged and defective.

11. During the pendency of this case the concerned workman Sri Bhagwan Das was died on 05.01.2012 and his son Pankaj Kumar Das is substituted in this case. His son now claims to get job as a dependant of a deceased workman. A man who filed documents which was manipulated his initial appointment etc is tainted as fraudulent. It is not understood how his dependant will get job now.

12. On Perusal of all document, the letter of Addl. District Magistrate Marked as M-8 & M-9 is declared as authentic document.

13. Considering the facts and circumstances of this the, It is hold that the action of the management of Basdeopur colliery of M/s BCCL in not allowing Sri Bhagwan Das in duty / Keeping in abeyance the offer of employment dt. 14/24.08.1998 till today is justified. Hence he is not entitled to get any relief. The claim is refused.

This is my award .

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1205.—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार आौद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 73/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/62/2014-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 73 of 2014) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/62/2014-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/s 10 (1) (D) (2A) of I.D. Act, 1947

Reference: No. 73 of 2014

Employer in relation to the management of Katras Area of M/S BCCL

AND

Their workman

Present: Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : Shri D.K. Verma, Advocate

For the workman : None

State : Jharkhand Industry : Coal

Dated : 03/05/2016

AWARD

By order No. L-20012 /62/2014-IR(C-1) dated 07/07/14, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of A.K.W.M Colliery Under Katras Area of M/s BCCL in not giving promotion to Sri Abhilal Murmu, E.P Fitter to the post Sr. Mechanic Grade- A in the Year 2002 is fair and justified? To what relief the concerned workman is entitled to?”

2. After receipt of the reference, both parties are noticed. But the workman does not appear. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1206.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 81/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/259/1990-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 81 of 1994) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/259/1990-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/S 10 (1) (D) (2A) of I.D. Act, 1947

Reference: No. 81 of 1994

Employer in relation to the management of Ramkanali Colliery of M/s. BCCL

AND

Their workman

Present: Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 16/05/2016

AWARD

By order No. L-20012 /259/1990-IR(C-1) dated 05/04/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Ramkanali colliery in Area No. IV of M/S Bharat Coking Coal Ltd. In denial of employment to Shri Jagdish Bouri and 17 others (as per list annexed) is justified? If not, to what relief the workmen are entitled?”

ANNEXURE

1. Shri Jagdish Bouri	2. Shri Raghubans Singh	3. Shri Barameshwar Singh
4. Shri Digamber Singh	5. Shri Dukhan Bouri	6. Shri Bhukhal Bouri
7. Smt. Basmati Bouria	8. Smt. Gandharo Kamin	9. Smt. Sarani Bourin
10. Smt. Paramili Mamia	11. Smt. Nauni Kamin	12. Smt. Basanti Kamin
13. Shri Mapura	14. Sri. Puna Bouri	15. Smt. Bela Kamin
16. Smt. Lata Kamin	17. Smt. Gaya Kamin	18. Shri Chutu Bouri

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1207.—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार आौद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 94/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/113/1992-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 94 of 1995) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/113/1992-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/S 10 (1) (D) (2A) of I.D. Act, 1947

Reference: No. 94 of 1995

Employer in relation to the management of Kenduadih Colliery

AND

Their workman

Present: Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : U. N. Lal, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 12/05/2016

AWARD

By order No. L-20012 /113/1992-IR(C-1) dated 05/04/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub -section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of the Kenduadih Colliery in denying employment to Smt Sonarwa Bhuini daughter of late Mahabir Bhuinya is justified? If not to what relief the workman is entitled for?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1208.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 273/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-20012/286/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 273 of 1994) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. ECL and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-20012/286/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/S 10 (1) (D) (2A) of I.D. Act, 1947

Reference: No. 273 of 1994

Employer in relation to the management of Regional Work Shop of M/s. ECL

AND

Their workman

Present: Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : S. Bhattacharjee

For the workman : None

State : Jharkhand Industry : Coal

Dated : 23.05.2016

AWARD

By order No. L-20012/286/1993/IR (C-1) dated 14/12/1994, the central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/S Eastern Coalfield Ltd, in not regularising Shri Amal Kumar Mishra as Asstt. Store Keeper w.e.f.25.07.89 and pay all arrears of wages with consequential benefits is justified? If not, to what relief the workman is entitled to?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एयर इंडिया लिमिटेड के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 52/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.06.2016 को प्राप्त हुआ था।

[सं. एल-11012/53/2007-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Mumbai (Ref. No. 52 of 2007) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Air India and their workmen, which was received by the Central Government on 09.06.2016.

[No. L-11012/53/2007-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI****Present :**

JUSTICE S. P. MEHROTRA, Presiding Officer

REFERENCE NO.CGIT-1/52 OF 2007**Parties:**

Employers in relation to the Management of Air India Ltd

AND

Their workmen

Appearances:

For the first party/ Management : Mr. Lancy D'Souza, Adv.

For the second party / Union : Mrs. P.S. Shetty, Adv.

State : Maharashtra

Mumbai, dated the 5th day of May, 2016

AWARD

1. The present Reference has been made by the Central Government by its Order dated 6.9.2007 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of Reference as per the Schedule to the said Order are as under:

“Whether the action of the Management of M/s Air India Limited, Mumbai in recovering the amount of Rs.6,000/-, which was allegedly received by the workmen as ex-gratia amount, is justified and legal? If not, to what relief is the concerned workman entitled?”

2. By the Order dated 26.11.2007, Notices were directed to be issued to the parties fixing 9.1.2008. Notices were accordingly issued.

3. A perusal of the Order-Sheet dated 9.1.2008 shows that both the parties were served with the Notice, and both the parties were present before the Tribunal on the said date. i.e. 9.1.2008.

4. Statement of Claim on behalf of the second party/Union was filed on 9.12.2010. Written Statement on behalf of the first party/Management was filed on 7.6.2012.

5. On 7.2.2013, Documents on behalf of the second party/Union were filed. Affidavit of WW-1 in lieu of Examination-in-Chief was also filed. Thereupon, by the Order dated 7.2.2013, the case was fixed for Cross-examination of WW-1 on 21.3.2013. The case was thereafter put up on 21.3.2013 and on various subsequent dates for Cross-examination of WW-1, but the case was adjourned for the reasons mentioned in the respective Orders passed on such dates.

6. On 24.9.2015, an Application was filed on behalf of the second party/Union. It is, inter-alia, stated in the said Application that in view of the circumstances mentioned in the said Application, the second party/Union will not pursue the matter as on date no dispute forming the subject-matter of the Reference exists, and that the Reference may be disposed of as not pressed. In Paragraph 4 of the said Application, filed on behalf of the second party/Union, it is stated as under:

“The Second Party submits that as most of their members from whom the ex-gratia amounts were deducted have retired and moreover since the First Party Company have stopped such deductions, the Union will not pursue the matter, as on date no such dispute exists. Hence it is humbly prayed that the Hon’ble Tribunal dispose of the reference as not pressed.”

7. Learned counsel for the first party/Management prayed for time for filing Say/Reply in respect of the aforesaid Application, as mentioned in the Order dated 24.9.2015.

8. Mr. Lancy D'Souza, learned counsel for the first party/Management filed Say/Reply on 14.1.2016, on behalf of the first party/Management in respect of the aforesaid Application dated 24.9.2015 filed on behalf of the second party/Union. The contents of the said Say/Reply dated 14.1.2016 filed on behalf of the first party/Management are reproduced below:

“The 1st Party/Company submits that the aforesaid Application filed by the 2nd Party Union contains an incorrect statement that the 1st Party/Company has stopped deductions towards recovery of the amount of Rs.6000/- from the workmen.

The 1st Party Company submits that it has already effected recovery of the said amount from the workmen from the arrears paid to them arising out of the wage settlement. A copy of letter dated 23rd March 2007 addressed to the conciliation officer confirming the aforesaid recoveries is attached herewith as Annexure A hereto.

The 1st Party Company further submits that the dispute was raised by the 2nd Party Union because the recovery was effected and the order of Reference and the Schedule to the Order of Reference also reflects the said

position. In the aforesaid circumstances the 1st Party Company submits that it has already recovered the amount in question and therefore the statement made by the 2nd Party Union that, no recovery is being made is false and misconceived.

The 1st Party company further submits that it has no objection if the 2nd Party Union desires to still withdraw the Reference. The 1st Party Company however does not admit the grounds stated in Para 4 of the said Application dated 24th September 2015”.

9. From a perusal of the contents of the Reply/Say dated 14.1.2016 filed on behalf of the first party/Management, as reproduced above, shows that while the first party/Management has no objection to the prayer of the second party/Union for withdrawing the Reference, but it has disputed the averments made in paragraph 4 of the Application dated 24.9.2015, regarding stoppage of deductions towards recovery of the amount of Rs.6,000.00 from the workmen. It is asserted in the Say/Reply dated 14.1.2016 that the first party/Management has already recovered the amounts in question, and the statement made in paragraph 4 of the Application dated 24.9.2015 that the first party/Management has stopped deductions towards recovery of the amount of Rs.6,000.00 from the workmen, is not correct.

10. The case was lastly put up on 21.4.2016. By the Order dated 21.4.2016, the case was directed to be put up on 5.5.2016 i.e. today. Accordingly, the case is put up today.

11. Mr.Lancy D’Souza, learned counsel for the first party/Management is present.

Mrs.P.S.Shetty, learned counsel for the second party/Union is also present.

Mr.Yarasi Easwara Reddy, stating himself to be President of the second Party/Union and Mr.Sanjay Sheth, stating himself to be Secretary of the second party/Union are also present, and they are identified by Mrs.P.S.Shetty, learned counsel for the second party/Union.

12. An Application has been filed today on behalf of the second party/Union. The Application is signed by the aforesaid Mr.Yarasi Easwara Reddy, President of the second Party/Union and Mr.Sanjay Sheth,Secretary of the second party/Union. Mrs.P.S.Shetty, learned counsel for the second party/Union has also signed the said Application. Contents of the Application are as under:

“On behalf of the 2nd party/Union it is humbly submitted that the Union will not be pursuing the Reference and wish to withdraw the same.

Both the undersigned Office bearers are authorized by the Workmen represented by them as well as by the Constitution of the Union to withdraw the present Reference filed before this Tribunal. None of the workmen represented by the Union will claim refund of Rs.6,000/- deducted by 1st party.”

13. In view of the averments made in the aforesaid Application filed today, it is evident that the objection raised on behalf of the first party/Management in its Say/Reply dated 14.1.2016, has been met with by the second party/Union as it has been categorically stated that none of the Workmen represented by the second party/Union would make any claim for Refund of the amount in question which has already been recovered by the first party/Management.

14. Mr.Lancy D’Souza, learned counsel for the first party/Management states that in view of the categorical averments made in the aforesaid Application filed today on behalf of the second party/Union that no Refund of the amount already deducted would be claimed by any of the Workmen, the first party/Management has no objection to the prayer made on behalf of the second party/Union in its Application dated 24.9.2015 for withdrawing the present Reference being granted.

15. Mrs.P.S.Shetty, learned counsel for the second party/Union states that in view of the averments made in the Application dated 24.9.2015, filed on behalf of the second party/Union as also in view of the averments made in the aforesaid Application filed today on behalf of the second party/Union, the second party/Union may be permitted to withdraw the present Reference.

16. From the averments made in the Application dated 24.9.2015, filed on behalf of the second party/Union as also the averments made in the aforesaid Application filed on behalf of the second party/Union today and keeping in view the statements made by the learned counsel for the parties, it is apparent that the dispute forming the subject-matter of the Reference no longer survives.

17. Reference is, therefore, answered by stating that the dispute forming the subject-matter of the Reference no longer survives.

18. Award is passed accordingly.

नई दिल्ली, 9 जून, 2016

का.आ.1210.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 46/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/06/2016 को प्राप्त हुआ था।

[सं. एल-22012/82/2002-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Girmint Colliery, M/s. ECL and their workmen, received by the Central Government on 07/06/2016.

[No. L-22012/82/2002-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 46 OF 2002

PARTIES:

The management of Girmint Colliery of M/s. E.C.L.

Vs.

Sri Amarjit Nonia

REPRESENTATIVES:

For the management : Sri P. K. Das, Ld. Advocate

For the union (Workman) : Sri S. K. Pandey, Gen. Secy. (CMC)

Industry : Coal

State : West Bengal

Dated : 22.04.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter NO. L-22012/82/2002-IR(CM-II) dated 30.10.2002 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Girmint Colliery of M/s. E.C.Ltd. in not providing employment to Sh. Amarjit Nunia, son of Late Ram Jatan Nunia, Ex. Wagon Loader, is justified? If not, to what relief Sh. Amarjit Nunia entitled? ”

1. Having received the Order No. L-22012/82/2002-IR(CM-II) dated 30.10.2002 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 46 of 2002 was registered on 15.11.2002. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The dependents of Late Ram Jatan Nunia have stated briefly in his written statement that Late Ram Jatan Nunia has been working as a Wagon Loader at Girmint Colliery under Sripur Area of M/s. Eastern Coalfields Limited. Due to

his bad luck he suffered with different types of ailments. He applied before the management for employment of his son in lieu of his job under Clause-9.4.3 of NCWA-IV. The workman was medically examined by the Medical Board. He was declared medically unfit for the job. The management terminated the job of Late Ram Jatan Nunia and advised to submit the required documents for employment of his son. The workman submitted all required documents for employment of his son Sri Amarjit Nunia. Though the age of Sri Amarjit Nunia, son of Late Ram Jatan Nunia was more than 20 years at that time as per record of the company, but management of M/s. Eastern Coalfields Limited did not provide employment in the ground of underage. Sri Amarjit Nunia was medically examined by Medical Board as per medical jurisprudence. Action of management in not providing employment to Sri Amarjit Nunia is unjustified. The whole family of the deceased workman is dying without meal. The dependent family members of Late Ram Jatan Nunia have prayed that the management of M/s. Eastern Coalfields Limited be directed to provide employment to Sri Amarjit Nunia the son of Late Ram Jatan Nunia.

3. M/s. Eastern Coalfields Limited has denied the allegation of dependent family members by filing written statement. M/s. Eastern Coalfields Limited has stated in brief in their written statement that the claim of dependent is barred by limitation, waived and estoppels. The ex-employee Late Ram Jatan Nunia, U/G Loader of Girmint Colliery of M/s. Eastern Coalfields Limited was directed before Area Medical Board 05.09.1990. Medical Board declared him unfit for duty. Said report was communicated to the ex-employee and thereafter his service was terminated w.e.f. 15.10.1990. The ex-employee applied for job in the dependent quota to Sri Amarjit Nunia. Sri Amarjit Nunia, dependent nominee was directed to appear before the Medical Board for pre-employment medical examination. But the board found him medically unfit for employment because of under age. The said unfit report was communicated to the concerned person by the management vide letter No. GM/SA/C-6D/7/91 dated 01.10.1991. As such the dependent has no right to claim again after the laps of more than 12 years. If there is any wrong play or violation of medical rule / procedure as per medical jurisprudence is committed by Medical Board then it cannot be adjudicated under Industrial Dispute Act, 1947. The Claimant has no right to challenge again the findings of Medical Board after laps of more than 12 years.

4. Dependent of the ex-workman, Late Ram Jatan Nunia has filed copy of service excerpt of Late Ram Jatan Nunia. Dependent son of Late Ram Jatan Nunia has filed affidavit in his oral evidence. He has been cross-examined by the learned advocate of M/s. Eastern Coalfields Limited. M/s. Eastern Coalfields Limited has filed three documents viz. (i) Ref. No. GM/SA/C-6D/7/91 dated 01.10.1991 issued by the P.M. of Sripur Area to Late Ram Jatan Nunia, (ii) Ref. No. A/Gir/20/C-6/90/3116 dated 15/16.10.1990 Medical Examination of Late Ram Jatan Nunia, (iii) Ref. No. C-6D/585 dated 15.08.1990 issued by P.M. of Sripur Area to Late Ram Jatan Nunia for medical Examination. M/s. Eastern Coalfields Limited has not filed any affidavit in their oral evidence.

5. Sri S. K. Pandey, General Secretary of the union appearing on behalf of the workman has argued that the workman was terminated on medical ground being declared unfit by the Medical Board. He was directed by M/s. Eastern Coalfields Limited to submit documents for employment of his son. Sri Amarjit Nunia was undergone pre-employment medical examination as per direction of M/s. Eastern Coalfields Limited. At the time of pre-employment medical examination Sri Amarjit Nunia was 20 years old but on whimsical ground his claim for employment was wrongly rejected declaring him as underage i.e. less than 18 years. On the other hand Sri P. K. Das, learned advocate appearing on behalf of M/s. Eastern Coalfields Limited has argued that compassionate employment cannot be claimed as matter of right. Sri Amarjit Nunia, son of Late Ram Jatan Nunia does not fulfill the required condition of M/s. Eastern Coalfields Limited.

6. I have heard the argument of union representative on behalf of the workman and learned advocate on behalf of M/s. Eastern Coalfields Limited.

7. It is admitted fact that Late Ram Jatan Nunia was Wagon Loader at Girmint Colliery of M/s. Eastern Coalfields Limited. It is not disputed by M/s. Eastern Coalfields Limited that Sri Amarjit Nunia is son of ex-employee Late Ram Jatan Nunia. The copy of service excerpts maintained by M/s. Eastern Coalfields Limited has been filed by dependent son of Late Ram Jatan Nunia. As per service excerpt the age of Sri Amarjit Nunia is 16 years as on 01.04.1987.

8. As per Clause-9.4.0 of NCWA-IV there is provision for employment to one dependent of worker who is permanently disabled in his place. In Clause-9.4.3 of NCWA-IV the category of dependent is defined for the purpose of employment as the case may be, unmarried daughter, son and legally adopted son are entitled for employment. If no such direct dependent is available for employment then brother, widowed daughter / widowed daughter-in-law / son-in-law residing with the employee and almost wholly dependent on the earning of the employee may be considered.

9. The right to obtain appointment on compassionate grounds emanates from the settlement. Settlement is defined in Section 2(p) of the Industrial Disputes Act to mean 'a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be

prescribed and a copy thereof has been sent to an officer authorized in this behalf by the appropriate Government and the conciliation officer'.

10. Hon'ble Supreme Court in Bhawani Prasad Sonkar v/s Union of India & Others (2011) 4 SCC 209 has held:

Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our Constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognized as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve.

11. Mohan Mahto v/s M/s. Central Coalfields Limited, 2007 (115) FLR 427, Supreme Court. In this case there was NCWA-V for providing employment of dependent of deceased employee working in coal mine. The coal mine worker died in harness. The dependent appellant of deceased workman applied for employment on compassionate ground on death of his father. The application of appellant was turned down on the ground that he was minor. Appellant after attaining majority applied for compassionate appointment on same ground after period of limitation. M/s. Central Coalfields Limited by circular dated 12.12.1995 had fixed the period of limitation. Hon'ble Supreme Court set-a-side the order of M/s. Central Coalfields Limited and directed M/s. Central Coalfields Limited to provide appointment to the appellant on compassionate ground. Hon'ble Supreme Court held that settlement under section 18 is binding on both the parties. There is no limitation provided under settlement, M/s. Central Coalfields Limited cannot issue such circular letter prescribing a period of limitation for filing application for employment on compassionate ground. Hon'ble Supreme Court has held that under article 12 of Constitution of India. Public sector undertaking is state within the meaning of article 12. It is under a constitutional obligation not only to act fairly but also reasonably and bona fide.

12. The Personnel Manager of M/s. Eastern Coalfields Limited had instructed Late Ram Jatan Nunia to submit application for employment of his dependent in prescribed proforma. After receiving the letter of termination of service vide letter no. C-6D/585 dated 15.08.1990. The agent of Girmint Colliery of M/s. Eastern Coalfields Limited informed Late Ram Jatan Nunia regarding termination of his service and simultaneously instructed Late Ram Jatan Nunia to submit application in prescribed proforma for payment of his gratuity and employment of his dependent. But personnel Manager of Sripur Area of M/s. Eastern Coalfields Limited informed Late Ram Jatan Nunia that Sri Amarjit Nunia, his dependent nominee has been declared medically unfit by pre-employment medical examination report vide letter No. GM/SA/C-6D/7/91 dated 01.10.1991. Personnel Manager by this letter informed Late Ram Jatan Nunia that his dependent son Sri Amarjit Nunia was found to be under age.

13. As per service excerpt maintained by the M/s. Eastern Coalfields Limited the age of Sri Amarjit Nunia, dependent son of Late Ram Jatan Nunia is Sixteen years as on 1987. M/s. Eastern Coalfields Limited has stated in Para-5 of their written statement that service of Late Ram Jatan Nunia was terminated on 15.10.1990 on medical ground. If age of Sri Amarjit Nunia was entered as 16 years as on 1987 in service excerpts of Late Ram Jatan Nunia then it is clear that in the year 1990 when service of Late Ram Jatan Nunia was terminated he was more than 18 years of age. As per service excerpts in 1991 Sri Amarjit Nunia was near about 20 years of age. In any circumstances his age in 1990 or 1991 cannot be below 18 years or under age. M/s. Eastern Coalfields Limited has not filed pre-medical examination report in support of their letter. By non-discloser of pre-medical examination report it cannot be assumed what was the basis for ascertaining the age of dependent Sri Amarjit Nunia. Even on visual observation it could have been ascertain that Sri Amarjit Nunia was above 18 years of age in the year 1991. The letter of Personnel Manager of Sripur Area of M/s. Eastern Coalfields Limited dated 01.10.1991 is contrary to service record maintained by M/s. Eastern Coalfields Limited. As per service record of Late Ram Jatan Nunia the age of Sri Amarjit Nunia, son of Late Ram Jatan Nunia is entered as 16 years as on 1987. Therefore on the date of pre-employment medical examination he was more than 18 years of age for getting the employment.

14. The dependent family members of the ex-employee Late Ram Jatan Nunia has stated in Para-9 of their written statement that their whole family was dying due to starvation. This indicates family of ex-employee Late Ram Jatan Nunia has no source of livelihood and facing financial crisis. This fact has not been rebutted by M/s. Eastern Coalfields Limited in their written statement.

15. In Para-4 &12 of written statement of M/s. Eastern Coalfields Limited it has alleged that the reference is time barred because reference has been made after 12 years. The dispute has been referred '2A' of section 10 of Industrial Dispute Act, 1947 by the competent authority. There is no limitation provided for competent authority for referring the dispute for adjudication.

16. In view of above discussion the action of management of Girmint Colliery of M/s. Eastern Coalfields Limited in not providing employment to Sri Amarjit Nunia, son of Late Ram Jatan Nunia, Ex-Wagon Loader is illegal and unjustified. Sri Amarjit Nunia, son of Late Ram Jatan Nunia, Ex-Wagon Loader is entitled for employment in M/s. Eastern Coalfields Limited. The order will be enforced within Two months after publication under section 17 of the Industrial Disputes Act, 1947.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 11/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/06/2016 को प्राप्त हुआ था।

[सं. एल-22012/87/2008-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of CM Ghusick Colliery, M/s. ECL and their workmen, received by the Central Government on 07/06/2016.

[No. L-22012/87/2008-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 11 OF 2009

PARTIES:

The management of CM Ghusick Colliery of M/s. E.C.L.

Vs.

Smt. Badani Mejhain

REPRESENTATIVES:

For the management : Sri P. K. Das, Ld. Advocate

For the union (Workman) : Sri Ganesh Roy, Ld. Advocate

Industry : Coal

State : West Bengal

Dated : 25.05.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/87/2008-IR (CM-II) dated 03.03.2009 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of CM Ghusick Colliery by not offering employment / monetary compensation to Smt. Badani Mejhain is legal and justified? To what relief is she entitled?”

1. Having received the Order No. L-22012/87/2008-IR (CM-II) dated 03.03.2009 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 11 of 2009 was registered on 09.03.2009 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

2. Case called out. Sri P. K. Das, learned advocate is present on behalf of the management but none appears on behalf of the workmen / union.

3. On perusal of the case record, I find that on 20.08.2009, Sri Ganesh Roy, Learned Advocate for the workman appeared and filed written statement on behalf of the workman. Thereafter none appeared on behalf of the workman. Registered notices to the union were issued on 15.05.2012 and 29.09.2014, but to no effect. So far 31 dates have been granted after 20.08.2009. Even 4 (four) dates were granted after the last notice but neither the workman nor his representative appeared before the case. It seems that the workman has now no more interested to proceed with the case further. As such the case is closed and a 'No Dispute Award' is hereby passed accordingly.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 9 जून, 2016

का.आ.1212.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 45/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/06/2016 को प्राप्त हुआ था।

[सं. एल-22012/313/1996-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th June, 2016

S.O.1212.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Dhemomain Colliery, M/s. ECL and their workmen, received by the Central Government on 09/06/2016.

[No. L-22012/313/1996-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 45 OF 1997

PARTIES:

The management of Dhemomain Colliery of M/s. E.C.L.

Vs.

Sri Kishun Mahato

REPRESENTATIVES:

For the management : Sri P. K. Das, Ld. Advocate

For the union (Workman) : Sri Manoj Mukherjee, Ld. Advocate

Industry : Coal

State : West Bengal

Dated : 01.06.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/313/1996-IR(C-II) dated 22.07.1997 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Dhemomain Colliery of M/s. ECL in dismissing Sri Kishun Mahato, U.G. Loader, from services is legal and justified? If not, to what relief is the workman entitled and from which date?”

1. Having received the Order No. L-22012/313/1996-IR(C-II) dated 22.07.1997 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 45 of 1997 was registered on 28.07.1997. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The workman Sri Kishun Mahato has stated, in his written statement, in brief that he got employment in M/s. Eastern Coalfields Limited in 1993 in permanent disablement quota of his father Sri Raja Ram Mahato under class 9:4:3 of NCWA-III. Sri Raja Ram Mahato the father of Sri Kishun Mahato was a permanent employee of M/s. Eastern Coalfields Limited at Tirat Colliery. Sri Raja Ram Mahato was suffering from Mouth Cancer. He was declared medically unfit for the job. In place of Sri Raja Ram Mahato, Sri Kishun Mahato being son of Sri Raja Ram Mahato was offered employment in M/s. Eastern Coalfields Limited in year 1993. Suddenly work man was directed to stop work by the management w.e.f. 18.10.1993 without service of notice. Workman was directed to appear before Sri J. R. Singh, Dy. Personnel Manager, Satgram Area of M/s. Eastern Coalfields Limited on 19.10.1993 along with his father Sri Raja Ram Mahato. Accordingly Sri Kishun Mahato and Sri Raja Ram Mahato appeared before the authority they were directed to sign some blank paper which were required for disbursing the retirement benefit of Sri Raja Ram Mahato and also in connection with the service of the said workman. Sri Kishun Mahato and Sri Raja Ram Mahato, both workmen are illiterate person therefore in good faith put their hands in the said blank paper. Sri Kishun Mahato was not allowed to resume his duty for a long time and after waiting for a considerable period he moved a writ petition before Hon'ble Calcutta High Court for his joining duty. In the affidavit, in opposition filed by the management it was first time stated that the concerned workman was dismissed from service on the charge of falsely representing himself as son of Sri Raja Ram Mahato though he is not son of Sri Raja Ram Mahato. Hon'ble High Court was pleased to direct the management on 24.06.1994 to determine question relating to the petitioner's relationship on the basis of materials available, if necessary by examining witnesses within a period of one month from the date of communication of this order. The management was also directed to allow the petitioner to resume his duty and till such decision is taken and event it is found that the workman is not in any way related to the said Sri Raja Ram Mahato, the management will be at liberty to terminate the services of the workman Sri Kishun Mahato and to take such step as they may be advised. Thereafter Sri Kishun Mahato was allowed by the management to resume his duty on 14.11.1994. He was issued with a charge sheet by the manager of Dhemomain Colliery of M/s. Eastern Coalfields Limited on 14.11.1994 alleging that the Sri Kishun Mahato describing himself as son of Sri Raja Ram Mahato defrauded the management and got employment on false and fake document. As such the workman misconducted himself by practicing fraud, dishonesty and giving false information under para 17(1)(a)(o) of the Model Standing Order. The workman was placed under suspension. Workman was directed to submit explanation to above charge sheet. Workman replied the charge sheet on 17.11.1994. But management instead of allowing him to join duty proceeded to hold an enquiry into the said charges against the said workman by appointing Enquiry Officer. Thereafter a fake enquiry was conducted by the Enquiry Officer into the said charges. Workman was dismissed from service w.e.f. 28.07.1995. Workman has alleged that no proper enquiry was held. Workman was not given proper opportunity to defend himself. None of the management witness stated against the workman during the enquiry. Workman filed some documents to establish relationship with Sri Raja Ram Mahato as his son namely (a) Xerox copy of Ration Card, (b) Xerox copy Relationship Certificate issued by M.L.A. of Burdwan Local Gram Panchayat, (c) Xerox copy of Electrol Roll, (d) Xerox copy S.R.E., (e) Xerox copy of Appointment Letter, (f) Xerox copy of the Fixed Deposit Certificate in their joint name issued by the Bank of India, Satgram Branch. The Enquiry Officer came to conclusion that charges were proved against the workman that the dismissing authority passed the dismissal order without recording any independent reason after acceptance of Enquiry Report. Sri Raja Ram Mahato appeared in enquiry proceeding but being cancer patient he was unable to speak properly, ultimately he expired on 15.05.1995 after 15 days. Workman has prayed that the Tribunal should set-a-side the Dismissal Order dated 28.07.1995. He should be re-instated in service with full back wages.

3. M/s. Eastern Coalfields Limited has stated in his written statement, in brief, that concerned person has procured employment on basis of fraudulent mis-representation and on being detection of fraud he was dis-engaged from the service. He cannot take advantage of fraud. Sri Raja Ram Mahato was declared medically unfit on 12.08.1992. In place of such disability resulting premature termination of service of Sri Raja Ram Mahato, a person describing himself Sri Kishun Mahato and as dependent of Sri Raja Ram Mahato procured employment as Under Ground Loader at Dhemomain Colliery of M/s. Eastern Coalfields Limited. On getting information about this false representation enquiry was conducted and services of Sri Kishun Mahato was terminated. Hon'ble Calcutta High Court was pleased to order that Sri Kishun Mahato should be reinstated. Management of M/s. Eastern Coalfields Limited will conduct enquiry regarding relationship of Sri Kishun Mahato with Sri Raja Ram Mahato. If upon enquiry charges are established management of M/s. Eastern Coalfields Limited is at liberty to terminate the services of Sri Kishun Mahato till such conclusion it was directed to permit Sri Kishun Mahato to resume his duty. In pursuance of the said order charge sheet was issued. Enquiry Officer was appointed. A domestic enquiry was conducted. Workman fully participated in the said domestic enquiry. Sri Kishun Mahato was given all opportunity to represent his case with the assistance of co-worker Sri S. Roy. Enquiry was conducted in total compliance of Natural Justice. Enquiry Officer submitted his finding. Competent authority on consideration of all relevant factors terminated his service w.e.f. 28.07.1995. M/s. Eastern Coalfields Limited has prayed that the dismissal of Sri Kishun Mahato is proper and justified and he is not entitled to any relief.

4. Sri Kishun Mahato has filed rejoinder written statement. He has alleged in rejoinder written statement that management has wrongly approached the principle of law by presupposing that the workman has practiced fraud upon the management. No proper opportunity was given to the workman to defend his case. Competent authority passed the dismissal order mechanically without assigning independent reason. Finding of enquiry officer is liable to be set-a-side.

5. The workman has filed : (i) Copy of charge sheet dated 14.11.1994, (ii) Copy of Reply of the same dated 17.11.1994, (iii) Copy of Dismissal Order dated 28.07.1995, (iv) Copy of Ration Card of Sri Kishun Mahato, (v) Copy of Relationship Certificate issued by M.L.A. and Pradhan, (vi) Xerox copy of Electrol Roll, (vii) Xerox copy of S.R.E. of Sri Raja Ram Mahato (viii) Xerox copy of Appointment Letter of Kishun Mahato, (ix) Xerox copy of Fixed Deposit (joint account) issued by the Bank of India, Satgram Branch, (x) Xerox copy of certificate of death of Sri Raja Ram Mahato.

M/s. Eastern Coalfields Limited has filed : (i) Copy of Communication of Declaring Medical Unfit to Sri Raja Ram Mahato dated 12.08.1992, (ii) Copy of High Court's Order, (iii) Copy of Charge Sheet dated 14.11.1994 issued to the ex-workman, (iv) Copy of Enquiry Proceedings containing 27 pages, (v) Copy of Letter of dismissal dated 28.07.1995, (vi) Copy of S.R.E. of Sri Raja Ram Mahato of Tirat Colliery, (vii) Copy of S.R.E. of Sri Badli Muchi, an Ex-employee of Chapui Khas Colliery of M/s. Eastern Coalfields Limited.

6. I have heard Sri Manoj Mukherjee, Learned Advocate on behalf of workman and Sri P. K. Das, Learned Advocate on behalf of M/s. Eastern Coalfields Limited and perused the record.

Sri Manoj Mukherjee, Learned Advocate has argued that charges against Sri Kishun Mahato have not been proved that he is not son of Sri Raja Ram Mahato but of Sri Badli Muchi. He has also argued that enquiry report was biased and partial. Delinquent was not given opportunity to defend himself. There is no compliance of Natural Justice in conducting domestic enquiry which is mandatory in law. The Enquiry Officer has based his enquiry report on the statement of Sri Raja Ram Mahato who was unable to give his statement in his preliminary enquiry due to his Mouth Cancer. He has also argued that the punishment of dismissal was quite disproportionate and shocking, it should be set-a-side. On the other hand Sri P. K. Das, Learned Advocate has argued that during enquiry proceeding Sri Kishun Mahato was given opportunity to defend himself by the Enquiry Officer. Punishment is just and reasonable.

7. It is not disputed that Sri Kishun Mahato, the dismissed employee, was inducted in employment of M/s. Eastern Coalfields Limited at Dhemomain Colliery in the year 1993, on the basis of compassionate appointment as per NCWA. It is also not disputed that charge sheeted workman was dismissed from service after domestic enquiry. As per allegation of delinquent workman the domestic enquiry was conducted in utter violation of principle of natural Justice. On basis of incorrect facts and with pre-determined mindset the Enquiry Officer recorded the finding that the delinquent workman was not the son of Sri Raja Ram Mahato, but son of Sri Badli Muchi. On this biased finding the dismissal order, passed by competent authority is unsustainable. On the other hand as per allegation M/s. Eastern Coalfields Limited in his written statement the delinquent workman Sri Kishun Mahato by falsely representing himself to be son of Sri Raja Ram Mahato, who was terminated on medical ground, procured the employment as a dependent of Sri Raja Ram Mahato. This fact has been confirmed by the Enquiry Officer in domestic enquiry which has been conducted in compliance of Natural Justice.

8. At this juncture, the question arises for consideration is that whether Sri Kishun Mahato procured the job by impersonation? Whether this fact has been confirmed by Enquiry Officer by conducting impartial enquiry? Whether the domestic enquiry has been conducted in compliance of natural justice? For this purpose the perusal of all papers connected to the enquiry is necessary. Though, copies of some documents have been filed by both the parties. In addition M/s. Eastern Coalfields Limited has submitted the file of domestic enquiry.

9. The Enquiry Officer fixed the date of enquiry on 29.12.1994 by informing the delinquent workman by letter dated 24.12.1994. On request of the workman the Enquiry Officer adjourned the proceeding and fixed the date of further enquiry on 20.01.1995. On 20.1.1995 the Enquiry Officer suo motu adjourned the proceeding and fixed the further date of enquiry on 03.02.1995. On 03.02.1995 Sri Kishun Mahato requested to adjourn the proceeding by informing that his writ was pending in the Hon'ble High Court. On request of delinquent Enquiry Officer adjourned the proceeding and fixed date on 25.02.1995. Enquiry proceeding was conducted on 25.02.1995, 04.03.1995, 11.03.1995, 25.03.1995, 30.03.1995, 01.04.1995, 13.04.1995 and 22.04.1995. The Enquiry Officer examined three management witness Sri D. C. Mitra, Dy. C.P.M., Head Quarter, M/s. Eastern Coalfields Limited, Sri Akhil Bhattacharjee, P.M., Satgram Area of M/s. Eastern Coalfields Limited and Sri C. K. Prasad, Sr. P.O., Dhemomain Colliery of M/s. Eastern Coalfields Limited as management witness. Sri Raja Ram Mahato the father of Sri Kishun Mahato was already examined on 19.10.1993. The Enquiry Officer has considered that documents filed by delinquent workman in enquiry proceeding namely; (i) *Copy of charge sheet dated 14.11.1994*, (ii) *Copy of Reply of the same dated 17.11.1994*, (iii) *Copy of Dismissal Order dated 28.07.1995*, (iv) *Copy of Ration Card of Sri Kishan Mahato*, (v) *Copy of Relationship Certificate issued by M.L.A. and Pradhan*, (vi) *Xerox copy of Electrol Roll*, (vii) *Xerox copy of S.R.E. of Sri Raja Ram Mahato* (viii) *Xerox copy of Appointment Letter of Kishun Mahato*, (ix) *Xerox copy of Fixed Deposit (joint account) issued by the Bank of India, Satgram Branch*.

There is material contradiction in the statement of Sri Raja Ram Mahato and Sri Kishun Mahato regarding relationship. On the basis of evidence of Sri Raja Ram Mahato and other supporting evidence, the enquiry officer recorded the finding that Sri Kishun Mahato is not the son of Sri Raja Ram Mahato. It is manifest from perusal of enquiry proceeding and enquiry report that enquiry was conducted in presence of delinquent workman. The delinquent workman Sri Kishun Mahato was permitted by Enquiry Officer to be assisted by co-worker namely; Sri Sukesh Roy. The delinquent workman was afforded opportunity to cross-examine the management witnesses. The delinquent workman was afforded opportunity to put his defence evidence. It is evident that the Enquiry Officer has complied the Principle of Natural Justice in conducting domestic enquiry.

10. The very basis of employment of Sri Kishun Mahato was that he was dependent son of Sri Raja Ram Mahato, ex-employee of M/s. Eastern Coalfields Limited. But as per enquiry report, which has been conducted, in compliance of Natural Justice, it has been established, that delinquent workman Sri Kishun Mahato inducted himself in the employment of M/s. Eastern Coalfields Limited by impersonation. In fact he was not the son of Sri Raja Ram Mahato ex-employee of M/s. Eastern Coalfields Limited which is very foundation of employment as per NCWA. Such type of conduct cannot be countenanced, as it creates a concavity in the work culture and ushers in indiscipline in an organization.

11. In Charanjit Lamba v/s Commanding officer AIR 2010 Supreme Court page 2462; In this case appellant was holding the rank of major in Indian army had exhibited dishonesty in making a false claim of transport charges of house hold luggage. Hon'ble Supreme Court held that penalty of dismissal was not disproportionate.

12. Section 11 A of Industrial Dispute Act, 1947 conferred power on the Industrial Tribunal or the Labour Court. The power u/s 11 A of the Act has to be exercised judicially and the Industrial Tribunal or the Labour Court is expected to interfere with the decision of the management u/s 11 A of the act when it is satisfied that punishment imposed by the management is highly disproportionate to the degree of the guilt of the workman concerned. A person when dismissed from service is put to great hardship, but that could not mean that a grave misconduct, should go unpunished. Punishment of dismissal from service for such misconduct cannot be said to be disproportionate to the proved misconduct. Punishment of dismissal for procurement of job by impersonation is minimum punishment.

13. In view of discussion above, the action of management of Dhemomain Colliery of M/s. Eastern Coalfields Limited in dismissing Sri Kishun Mahato, Under Ground Loader from service is legal and justified. The workman is not entitled to any relief.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 10 जून, 2016

का.आ.1213.—कर्मचारी राज्य बीमा अधिनियम, 1948(1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 01 जुलाई, 2016 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय- IV (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी हैं) अध्याय- V और VI [धारा-76 की उप धारा (1) और धारा -77, 78 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपर्युक्त तेलंगाना राज्य के नियमिति शक्तियों में प्रवृत्त होंगे, अर्थात्:

“समय-समय पर कार्यान्वित किए गए तेलंगाना राज्य के क्षेत्रों को छोड़कर, तेलंगाना राज्य के मेडक, महबूबनगर एवं निजामाबाद जिले के राजस्व गांवों के सभी क्षेत्र”

[सं. एस-38013/25/2016-एस.एस.-1]

अजय मलिक, अवर सचिव

New Delhi, the 10th June, 2016

S.O.1213.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st July, 2016, as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Telangana, namely:—

“All areas falling within the revenue villages of Medak, Mahabubnagar and Nizamabad District of Telangana State except the areas which have already been implemented from time to time.”

[No. S-38013/25/2016-S.S.-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 10 जून, 2016

का.आ.1214.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 184/2004) (आईटीसी सं. 92/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-41012/64/98-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 10th June, 2016

S.O.1214.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 184/2004) (ITC No. 92/1999) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 06.06.2016.

[No. L-41012/64/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 16th March, 2016

Reference: (CGITA) No. 184/2004

Reference: (ITC) No. 92/1999

1. The Divisional Railway Manager,
Western Railway, Rajkot Division,
Kothi Compound,
Rajkot (Gujarat)-360001

....First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar,
Near New Rly Colony ,
Sabarmati,
Ahmedabad (Gujarat)-380001Second Party

For the First Party : Shri H.B. Shah, Advocate
For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour ,New Delhi by reference adjudication Order No. L-41012/64/98-IR(B-I) dated 18.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Paschim Railway Karmachari Parishad that the Good Servers Shri Jaikhan P. , Avdeshsing B., Shri Bhanwar Singh, Shri Surmansingh, Shri Surman Singh, Shri Bhanwar Singh, Shri Anilkumar P., Shri Tukmansingh are entitled for the restructuring as well as benefits w.e.f. 1.3.1993 in the scale of 1600-2600 and the benefits of promotion as passenger drivers as per letter No. E1/1025/5/5/Vol. IX dated 24.02.1993 is legal and justified? If yes to what relief the concern employees are entitled to?”

2. This reference dates back to 18.03.1999. Second party filed the statement of claim (Ext.6) on 01.07.1999. First party filed the written statement (Ext.12) on 19.06.2008 since then second party has not been leading his evidence. Thus, it appears that second party is not willing to proceed with the reference as they have been absent since last several dates. Thus Tribunal has no option but to dismiss the reference in default of the second party.

This reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 जून, 2016

का.आ.1215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 656/2004) (आईटीसी सं. 11/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-41012/254/97-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 10th June, 2016

S.O.1215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 656/2004) (ITC No. 11/1998) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 06.06.2016.

[No. L-41012/254/97-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 16th March, 2016

Reference: (CGITA) No. 656/2004**Reference: (ITC) No. 11/1998**

1. The Divisional Railway Manager,
Western Railway,
Div. Office,
Pratap Nagar,
Baroda
2. The Asst. Engineer (S),
Western Railway,
Bharuch

...First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda

...Second Party

For the First Party : —
For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/254/97-IR(B-I) dated 19.05.1998 referred the dispute for adjudication to the Industrial Tribunal, Baroda(Gujarat) in respect of the matter specified in the Schedule:\

SCHEDULE

“Whether the action of the Railway Administration through Divi. Rly Manager, Western Railway, Baroda Division and its officers at Bharuch in terminating the services of Shri GabjiManchu, Gangman working under C.P.W.I. Utraan vide order No. E/308/3/96/URN dt. 3.1.97 is legal, proper and justified? If not, what relief the workman is entitled and what directions are necessary in the matter?”

2. This reference dates back to 19.05.1998. First party filed vakalatparta on 07.03.2000 and (Ext.9) on 10.07.2000 and also filed written statement (Ext.11) on 10.07.2000. Second party filed the statement of claim (Ext.5) on 21.09.1999 but has not been leading evidence despite giving him dozens of opportunities. Thus, it appears that second party is not willing to proceed with the reference as they have been absent since last several dates. Thus Tribunal has no option but to dismiss the reference in default of the second party.

This reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 जून, 2016

का.आ.1216.—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार आौद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 27/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-41011/90/2009-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 10th June, 2016

S.O.1216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2011) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 06.06.2016.

[No. L-41011/90/2009-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 16th March, 2016

Reference: (CGITA) No. 27/2011

1. The Divisional Railway Manager (E),
Western Railway,
DRM Office,
Asarwa Road,
Ahmedabad (Gujarat) ...First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
134, near Vishwakarma Mandir,
Opp. Railway Colony,
Sabarmati,
Ahmedabad (Gujarat)-19 ...Second Party

For the First Party : Shri M.M. Makhija, Advocate
For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/90/2009-IR(B-I) dated 15.04.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Paschim Railway Karmachari Parishad, Ahmedabad for placing Shri Surech C. Patel, Loco pilot (Goods) Grade-II, Loco Shed, Sabarmati at Sr. No. 34 instead of placing him at Sr. No. 49 in the seniority list no. GM/1030/I-Goods Grade-II dated 2/8/2004, is legal and justified? To what relief the Union/workman is entitled?”

3. This reference dates back to 15.04.2011. First party filed the vakalatpatra (Ext.3) on 03.12.2015. Second party has been served but has not filed the statement of claim. Thus, it appears that second party is not willing to proceed with the reference as they have been absent since last several dates. Thus Tribunal has no option but to dismiss the reference in default of the second party.

This reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 जून, 2016

का.आ.1217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ सं. 83/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/112/2015-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 10th June, 2016

S.O.1217.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 83/2015) of the Central Government Industrial Tribunal-Cum-Labour-Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Bikaner and Jaipur and their workmen, received by the Central Government on 06.06.2016.

[No. L-12012/112/2015-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D.83/2015

Reference No. L-12012/112/2015-IR(B-I) dated: 18/24.11.2015

Shri Parmod Kumar Sharma
S/o Shri shayam Lal Sharma
262/138, Parthab Nagar, Sanganer,
Jaipur

V/s

1. The Maniging Director
State Bank of Bikaner & Jaipur
Tilak Marg, C-Scheme, Jaipur.
2. The Branch Manager
State Bank of Bikaner & Jaipur
80/10, Kumbha Marg,
Parthab Nagar, Sanganer, Jaipur

AWARD

27.4.2016

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या प्रंबंधन स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर का कर्मकार श्री प्रमोद कुमार शर्मा पुत्र श्री श्याम लाल शर्मा, सबस्टाफ को मौखिक आदेश दिनांक 01.04.2014 के द्वारा नौकरी से निकाला जाना न्यायोचित एवं न्यायसंगत है? यदि नहीं तो कर्मकार किस अनुतोष को पाने का अधिकारी है ?”

2. Pursuant to the receipt of the reference order, registered notices were issued to both the parties as per the order of the tribunal dated 21.12.2015 fixing 29.2.2016 for filing statement of claim. On 29.2.2016 none appeared from both the side. Notice against the applicant was served in person. Notice against the opposite party also has been served & Acknowledgements in relation to parties are on record. In the interest of justice case was adjourned on 19.2.2016 by the tribunal on its own motion fixing 15.3.2016 for filing statement of claim.

3. On 15.3.2016 none appeared from the applicant side. Learned representative of the opposite party appeared & filed authority on behalf of opposite party. Statement of claim was not filed. Again, in the interest of justice case was adjourned fixing 6.4.2016 for filing statement of claim. On 6.4.2016 none appeared from both the side. Case was adjourned by tribunal on its own motion in interest of justice fixing 26.4.2016 for filing statement of claim by applicant with last opportunity extended to him.

4. On 26.4.2016 none appeared on behalf of parties. Order was passed to take up the file again in the afternoon. In afternoon session neither applicant appeared nor filed statement of claim. Learned representative of opposite party appeared & objected to the granting of further adjournment to the applicant despite his repeated absence & failure to file statement of claim. Looking into the past order-sheets indicating continuous absence of the applicant & his failure to file statement of claim, further opportunity for filing claim was closed on 26.4.2016 in view of the fact that applicant does not appear to be interested in filing the statement of claim.

5. It is pertinent to note that on 18/24.11.2015 reference order was sent by Ministry to applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on notice & knowledge of the proceeding pending before the tribunal. It appears

that applicant is not interested & willing in submitting the claim for adjudication. In the circumstances & in the absence of material evidence brought on record, tribunal is unable to record the finding on the issues referred to it on merit. Accordingly, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

6. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 10 जून, 2016

का.आ.1218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पुणे के पंचाट (संदर्भ सं. 240/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.06.2016 को प्राप्त हुआ था।

[सं. एल-12011/11/2009-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 10th June, 2016

S.O.1218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 240/2009) of the Labour-Court, Pune as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 06.06.2016.

[No. L-12011/11/2009-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, LABOUR COURT No. 2, PUNE

(Presided over by Shri N.P. Tribhuwan)

Ref. IDA. No. 240 of 2009		Exh.-38
First party	:	State Bank of India
		Through the General Manager,
		Local Head Office, Bandra Kurla
		Complex, Mumbai-400 051.
And		
Second party	:	Shri D.N. Gunjal
		Boro Phata, At & Post Ale'
		Tal. Junnar, Dist. Pune

Shri D.V.Kulkarni Advocate for first party

Shri R.P. Shaligram Advocate for second party

AWARD

(Delivered on 29/12/2015)

1. The Central Government of India, Ministry of Labour has referred this reference u/s 10 of the Industrial Disputes Act for adjudicating dispute as follows:-

Whether the action of management of State Bank of India in imposing the punishment of dismissal on Shri D.N. Gunjal w.e.f. 26/12/2005 is justified?

If not, to what relief he is entitled to and from which date?

2. Second party has filed statement of claim at Exh.8 and contended that, he was working with first party since 6/1/1982. First party has illegally terminated his services by letter dt.26/12/2005. At that time he was working as Assistant (Accounts) in Rajgurunagar Branch of first party. His service record is clean and unblemished. Due to illegal termination of services, he approached to Government Labour Office, Pune (Central) to resolve dispute but conciliation proceeding failed and Labour Officer has referred this reference for adjudication.

3. Second party further contended that first party has issued him show-cause notice dt.25/11/2003. He gave reply to said

notice on 8/12/2003. Without considering his reply first party has issued suspension order dt. 24/12/2003 and chargesheet dt. 29/10/2004. Second party submitted his reply to charge-sheet by letter dt.16/11/2004. However, without considering his reply first party has decided to conduct departmental enquiry. Preliminary enquiry was conducted on 15/12/2004 and it concluded in one day i.e on 29/12/2004. Second party has participated in enquiry with his representative Mr. S.K. Patwardhan. Management has examined 2 witnesses. On 12/1/2005, first party has submitted his written argument and thereafter second party has submitted his defence statement in enquiry.

4. Second party has demanded four documents in enquiry i.e. i] letter sent by SBI Manchar to Controlling Authority regarding defence of the said SC incidence, ii] reply from controlling authority to BM Manchar branch, iii] investigation report, iv] copy of FIR lodged by the bank.

5. Above documents were / are in custody of management. These documents are very important from the defence point of view but without recording argument, the enquiry officer has refused to supply those documents. Thus enquiry is not legal, fair and proper. Moreover no legal and proper subsistence allowance was paid during suspension period. On this ground also enquiry is liable to be vitiated. Thereafter all of a sudden first party has taken decision to dismiss second party and hence issued show-cause notice dt.18/7/2005. Enquiry officer held that second party is not guilty in respect of charge No.4. Even signatory of show cause notice held that second party is guilty for all charges and decided to impose punishment of dismissal to second party. It clearly shows vindictive attitude of first party towards second party. Without providing copy of findings of enquiry officer first party has taken such decision. On this ground also enquiry is liable to be vitiated. Second party has demanded copy of findings by letter dt. 30/7/2005 and thereafter first party has provided copy of findings.

6. Second party further contended that enquiry officer in his findings held that, three out of four allegations are proved. Findings are totally silent about the gross misconduct under Clause 5 (d) and (j). There are contradictions in evidence of management witnesses. The enquiry officer has not considered the same. Findings of enquiry officer are not based on evidence. Said findings are perverse.

7. Second party further contended that AGM, Region II, has no authority to issue dismissal order to second party. Practical effect of punishment is given from the date of suspension and thus the termination is with retrospective effect. Hence dismissal order dt.26/12/2005 is illegal and unjust. So also punishment of dismissal is shockingly disproportionate. Second party has rendered near about 25 years service. First party has not considered past record of second party. Second party and his family members are suffering hardship due to the dismissal order. Second party has tried his level best to secure job elsewhere, but could not succeed due to the said dismissal order and hence he is unemployed till today. He prayed that he be reinstated with continuity of service, back wages and other incidental benefits.

8. First party has filed its written statement at Exh.10 and contended that charges levelled against second party were that of playing fraud with bank. First party-bank has set the law into motion by issuing chargesheet dt.29/10/2004 and thereafter hold departmental enquiry. Due and proper opportunity has been provided to second party in said enquiry. It was charge that one Rajendra P Patil has tendered a cheque dt.3/10/2003 bearing No.756139 for Rs. 48,30,925/- drawn on Saraspur, Ahmedabad branch and second party has prepared collection schedule and has handed over said Schedule to Mr. Patil without bringing said fact to the knowledge of his superior on 21/10/2003. When Mr. Patil has brought SC payment (T.R.Advice) to branch, second party has accompanied with him and has further insisted the payment of said T.R. advice. However after making enquiry it was found that said document was fake and thus he has played a fraud with bank. Therefore said act is gross misconduct as per clause 5 (d) and (j) of the B.P Settlement. Hence charge-sheet was served. Full fledged enquiry has been held in which all due opportunities given to second party. Documentary evidence which was produced in enquiry, its copies were handed over to him. After conclusion of enquiry, findings of enquiry officer also supplied to him. Thereafter taking into consideration all material aspects, first party has found that misconduct proved against second party being of serious and grave nature there is no other alternative punishment other than dismissal. As per order dt.26/12/2005 he was dismissed from service. He has preferred appeal against said order and the said appeal also dismissed on 18/6/2007.

9. First party denied that signatory of dismissal order has no authority to issue the said order. Further denied that said punishment of dismissal is shockingly disproportionate. In view of above pleading first party denied all other adverse allegations made in statement of claim.

10. My learned Predecessor – Shri S.G. Deshmukh has framed issues at Exh.11 and issue no.2 was treated as a preliminary issue. I have decided said issue by order dt.17/9/2014 at Exh. 21 and thereby held that enquiry is legal, fair and proper. Thereafter I passed order at Exh.28 and thereby issue pertaining to the findings of enquiry officer taken as a preliminary issue. Accordingly, I decided said issue no.3 (Part i) at Exh.29 and held that :-

i. Finding of enquiry officer on the charge no.1 to the extent of negligence of second party that "he has without bringing the fact of hand delivery of SC to the knowledge of appropriate authority given hand delivery" is based on evidence.

- ii. Findings of enquiry officer on charge no.4 are based on evidence.
- iii. Findings of enquiry officer on remaining charges are not based on evidence.

Now I have recorded my findings on following remaining issues for the reasons stated as follows.

Issues	Findings
1	Whether second party proved that first party-employer has been illegally terminated his services on 26/12/2005?
3(ii)	---Yes
3(ii)	Whether misconduct is proved before this court ?
---No	
4	Is second party entitled for reinstatement with back wages?
5	---Yes, with 25% back wages.
5	What relief ?
6	---As per final order.
6	What order?
---	---As per final order

REASONS

As to issue No.3(ii):-

11. As per chargesheet dt.29/10/2014 following charges were levelled against second party:-

- i. On 3/10/2003 Shri Rajendra P. Patil tendered a cheque No.756139 for Rs.48,39,925/- drawn on our Saraspur (Ahmedabad) Branch. Second party has prepared Collection Schedule and handed over said Schedule to Shri Rajendra P. Patil for onward transmission to Saraspur Branch on same date, without bringing said fact to the knowledge of the appropriate authority.
- ii. On 21/10/2003 Shri Rajendra P. Patil had brought the SC payment (TR advice) advice to the branch. Second party has accompanied the account holder to the cabin of Branch Manager and insisted for payment of TR advice and also assured Branch Manager that the account holder will invest Rs.5 lacs in TDR out of the payment received.
- iii. On discreet enquiry, it was observed that TR advice brought by the account holder to the branch did not relate to any originating entry passed by Saraspur (Ahmedabad) Branch.
- iv. It has been observed that second party had on 3/10/2003 has advised Shri Mohan B. Gawade Prop. of M/s. Sai Traders to sign as an introducer for opening a current account by Shri Rajendra P. Patil Prop. M/s. Prithvi Consultancy Services, Narayangaon. Thus above acts of second party indicates his involvement in attempt to commit the fraud.

All his above acts amounts to Gross Misconducts, inter-alia under clause 5(d) & (j), interalia, which amounts to willful damage or attempt to cause damage to the property of the bank or any of its customers, doing any act prejudicial to the interests of the bank.

12. As per charge-sheet misconduct of second party is under clause 5(d) & (j). First party has produced copy of Memorandum of Settlement dt.10/4/2002 which is between first party and its employees. Its clause 5(d) and (j) reads as under :-

- 5 By the expression "gross misconduct" shall be mean any of the following acts and omissions on the part of an employee:-

 - (d) Willful damage or attempt to cause damage to the property of the bank or any of its customers.
 - (j) Doing any act prejudicial to the interest of bank or gross negligence or negligence involving or likely to involve the bank in serious loss.

13. In view of order dt.17/3/2015 (Exh.29) the finding of enquiry officer on the charge no.1 to the extent of negligence of second party that "he has without bringing the fact of hand delivery of SC to the knowledge of appropriate authority given hand delivery" is based on evidence. As far as the findings of enquiry officer on charge nos.2 & 3 are concerned, not based on evidence. Findings of enquiry officer on charge no. 4 that "chargesheeted employee was involved in the attempt to defraud" is based on evidence. And as per the said findings of enquiry officer, he found that evidence on record is not sufficient to prove the involvement of charge-sheeted employee in the attempted fraud.

14. Heard learned counsel of both parties. In view of order dt.17/3/2015 passed on preliminary issue No.3(i), opportunity is given to first party to prove the misconduct (upon which findings of enquiry officer are perverse) before this court. However, first party has not adduced any evidence or examined any witness after the said order dt.17/3/2015. Second party has also not examined himself or any witness after the said order. Hence first party failed to establish remaining misconduct i.e. charge Nos.2, 3 and partly charge no.1 before the court. Hence I answered issue No.3(ii) in negative.

As to issue No.1,4 & 5:-

15. As far as quantum of punishment is concerned, learned counsel of second party argued that this court while answering preliminary issue No.3(i) held that misconduct proved against second party does not come under clause 5(d) & (j) and also held that it appears from the copy of memorandum of settlement that the act of negligence is under clause 7(c) which reads as "neglect of work, negligence in performing duties". Learned counsel of second party further argued that punishment for misconduct under clause 7(c) is provided under clause 8 of the said settlement. Hence any of the punishment provided in clause 8 be awarded i.e a] warned or censured; or b] have an adverse remark entered against him; or c] have his increment stopped for a period not longer than six months.

16. On the point of punishment for proved misconduct, learned counsel of first party relied on following case laws:-

i. The Life Insurance Corporation of India & Ors Vs S. Vasanthi, reported in 2015 LLR 179 SC; wherein respondent was held guilty of the charge of tampering the insurance policy causing financial loss to the appellant. Misconduct proved by disciplinary authority and awarded punishment of recovery of amount of loss suffered by the appellant in addition to reduction in basic pay.

Held, court has no power to interfere in the quantum of punishment, imposed by employer upon the employee, under power of judicial review without giving convincing reasons.

Quantum of punishment and nature of penalty to be awarded is exclusively within the jurisdiction of competent authority/employer.

Judicial review on the administrative action is limited only to the cases where there is any illegality, irrationality and procedural impropriety in the order passed by the administrative authorities.

ii. State Bank of India & anr Vs Bela Bagchi & ors., reported in AIR 2005 SC 3272; wherein held, a bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank Officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this court in disciplinary authority-cum-Regional Manager Vs Nikunja Bihari Patnaik, 1996 (9) SCC 69, it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization, more particularly a bank, is dependent upon each of its officers and employee acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. That being so, the plea about absence of laws is also sans substance.

iii. Sarabhai M. Chemicals (S.M.Chemicals & Electronics) Ltd. And M.S.Ajmere & anr., reported in 1980 I LLJ 295; wherein held, any person who is disobedience becomes insubordinate and his conduct amounts to insubordination. Therefore where a workman disobeys a lawful order, he can be said to be guilty of insubordination and it needs hardly to be stated that a misconduct of disobedience and insubordination would also amount to indiscipline. There is no difficulty in holding, on the finding recovered by the Labour Court, that it was part of workman's duty to type the delivery chalans and his declining to do so would clearly amount to insubordination and indiscipline.

It cannot be said that disciplinary proceedings for misconduct can never be taken against an employee on a charge of insubordination arising out of a solitary instance of a lawful order and that for sustaining such charge of insubordination several repeated instances of disobedience are necessary.

The argument made on behalf of workman that some other punishment should have been awarded in lieu of dismissal would not entitle the Labour Court to interfere with the order of punishment. As pointed out in Hind Construction and Engineering Co's case (1965 I LLJ 462), the Tribunal is not required to consider the propriety or adequacy of punishment or whether it is excessive or too severe. In case the punishment is shockingly disproportionate, regard being had to the particular conduct of workman, the test is that no reasonable employer will ever impose such punishment in like circumstances and then alone the Tribunal will be entitled to treat the punishment as amounting to victimization or unfair labour practice. In the instant case, the Labour Court has nowhere said that for such a misconduct, no other employer could have imposed the punishment of dismissal. Indeed why the Labour Court took the view that the punishment is shockingly disproportionate is not to be found in the order.

17. In view of the answer to preliminary issue no.3 (Part i) charge No.1 to the extent that second party has without bringing the fact of hand delivery of SC to the knowledge of appropriate authority given hand delivery; is based on

evidence. As far as the findings of enquiry officer on charge No.4:- act of involvement of second party in attempt to commit the fraud; is based on evidence. By the said findings on charge No.4, enquiry officer found that evidence on record is not sufficient to prove the involvement of chargesheeted employee in the attempted fraud. Therefore charge No.4 is not proved against second party. Hence misconduct mentioned in charge no.1 to the extent of negligence of second party that 'he has without bringing the fact of hand delivery of SC to the knowledge of appropriate authority given hand delivery' is proved. At the time of answering preliminary issue No.3 (Part i), I mentioned that "the act of charge-sheeted employee does not come under Clause 5(d) and (j); it appears from copy of memorandum of settlement that the act of negligence is under Clause 7(c) which is neglect of work, negligence in performing duties". Therefore it means that act of misconduct of second party comes under Clause 7(c). For the said misconduct lesser punishment is provided in Clause 8 as contended in para supra.

18. In view of above cited case law of State Bank of India Vs. Bela Bagchi, in the present case second party is also Bank Officer but charge No.4 i.e. 'attempt to commit the fraud'; is not proved. But only charge No.1 is partly proved as stated above. Further first party has not established that past service record of second party is blemished. Thus in view of above all cited case laws and considering entire facts and circumstances of present case and the nature of proved minor misconduct, it can be said that for such misconduct no other employer would have imposed the punishment of dismissal. Punishment for the misconduct under Clause 7(c) are provided in Clause 8 of the said settlement. As per Clause 8, these punishments are:- a] warned or censured; or b] have an adverse remark entered against him; or c] have his increment stopped for a period not longer than six months. Thus in the facts and circumstances, it is desirable to interfere in the quantum of punishment imposed by first party upon second party. Thus second party succeed to establish that first party has illegally terminated his services on 26/12/2005 by awarding punishment of dismissal. Hence second party is entitled for relief of reinstatement with continuity of service with liberty to first party to award any of the punishment provided in Clause-8 of the said settlement.

19. As far as relief of back wages is concerned, learned counsel of first party relied on the case law of U.P.State Brassware Corporation Ltd. & anr Vs Udai Narain, reported in AIR 2006 SC 586; wherein held while granting relief, application of mind on part of industrial forum is imperative. Payment of full back wages cannot be natural consequence. Having regard to provisions of Section 106 of Evidence Act, workman to raise plea that he was not gainfully employed during period of retrenchment, but respondent workman did not raise such plea. Establishment sold on 26/3/1993. Hence in interest of justice workman to be paid 25% back wages for period 1/4/1987 to 26/3/1993.

20. In the present case in my hand, second party deposed that he tried his level best to get the job elsewhere, but could not succeed due to said dismissal order and hence he is unemployed since the date of termination till today. During cross examination, he stated that after dismissal he tried to get the job of account assistant, but he has no documentary evidence to show the said efforts.

21. Certainly from the date of dismissal i.e since near about 10 years second party has been working for his daily needs and livelihood and it cannot be said that during this period, he has been sitting idle without doing any work. Considering entire facts and circumstances, and in view of ratio laid down in above cited case law, it is desirable to grant 25% back wages to second party from the date of termination dt.26/12/2005 till the date of reinstatement. Hence, I answered issue Nos.4 & 5 as above. In the peculiar facts and circumstances, it is desirable that parties do bear their own costs. In the result, I proceed to pass following order.

ORDER

1. Reference is allowed as follows.
2. First party is directed to reinstate second party with continuity of service within one month from the date of publication of award and first party is at liberty to award any of the punishment prescribed in Clause-8 of the said settlement to the second party for the above said proved misconduct.
3. First party is directed to pay 25% back wages to second party from the date of dismissal i.e 26/12/2005 till the date of reinstatement.
4. Parties do bear their own costs.
5. Award be sent to appropriate Government as per rule.

Date : 29/12/2015

PUNE

N. P. TRIBHUVAN, Presiding Officer

नई दिल्ली, 13 जून, 2016

का.आ.1219.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईस्ट दिल्ली म्युनिसिपल कारपोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 99/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.06.2016 को प्राप्त हुआ था।

[सं. एल-42011/05/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th June, 2016

S.O.1219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 99/ 2015) of the Central Government Industrial Tribunal-Cum-Labour-Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the East Delhi Municipal Corporation and their workman, which was received by the Central Government on 10.06.2016.

[No. L-42011/05/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 99/2015

The President,

MCD General Mazdoor Union,
Room No.95, Barrack No.1/10,
Jam Nagar House,
New Delhi – 110 011

...Workman

Versus

The Commissioner,
East Delhi Municipal Corporation,
Udyog Sadan, near Patparganj,
Jawaharlal Nehru Marg
New Delhi 110 002

...Management

AWARD

Reference under Section 10 sub section (2A) of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment vide order No.L-42011/05/2015-IR(DU) dated 05.03.2015 for adjudication of the industrial dispute with the following terms:

“Whether Shri Azad Singh S/o Shri Sardar Singh is entitled to the status of Chaudhary in the pay scale of Rs.950-1500 with effect from 01.06.1993 revised from time to time alongwith all consequential benefits? If so, what directions are necessary in this respect?”

2. Both the parties were put to notice and the workman, Shri Dharamvir Singh filed his statement of claim, wherein it is alleged that he has been allotted work of Chaudhary with effect from 01.06.1993 by the competent officers of Horticulture Department. He is presently posted under Shahdara North Zone to work under Deputy Director of Horticulture. However, he has been denied pay scale of Chaudhary, revised from time to time. No qualification is prescribed for promotion to the post of Garden Chaudhary. The workman has got payment of salary in the lower pay scale of mali, but has been denied the scale of Chaudhary, i.e. Rs.950-1500 for his performing the duty of Chaudhary with effect from 01.06.1993. Action of the management is alleged to be illegal & unjustified and amounts to unfair labour practice.

4. It is also averred in para 7 of the statement of claim that Hon'ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis who are working on the post of Chaudhary vide its judgement dated 02.05.2003. There is also reference to the judgment of

Division Bench of High Court of Delhi in the matter of Municipal Corporation of Delhi vs. Sultan Singh wherein also plea of the MCD regarding non-payment of wages of Chaudhary to malis who are doing working of Chaudhary, was turned down by the Hon'ble High Court in judgement dated 27.07.2011.

5. It is also averred that similarly situated workmen (Mali and Chowkidar) who were performing duty of Chaudhary were granted pay scale of Chaudhary from the date when they were asked to perform duty on the higher post and management has challenged the order dated 27.07.2011 of the Labour Court in the matter of MCD vs Sultan Singh as well as before the Hon'ble Supreme Court of India by Special Leave to Appeal No.S20069/2011 and the plea by MCD all the time has been dismissed by both, before the High Court as well as the Hon'ble Supreme Court. Workman herein is also similarly situated and doing work of Chaudhary and as such entitled to same benefits.

6. Management, despite granting of four opportunities, failed to put in their appearance and hence were proceeded ex-parte on 17.03.2016.

7. The only issue which requires determination in the case in hand is whether the workman herein is entitled for grant of pay scale of Rs.950 - 1500 as revised from time to time alongwith consequential benefits. It is clear from statement of claim that initially the workman herein was appointed as mali on muster and later on he was regularized on the same post of mali in the pay scale of Rs.950-1500 alongwith usual allowances.

8. There is also ample evidence on record that the workman herein was performing duty as officiating Chaudhary. It is clear from perusal of document dated 25.11.2002 (List of Chaudharys working in Shahdara North Region) Ex.WW1/3 that name of the workman, Shri Azad Singh finds mention at serial No.3 in the list of officiating Chaudhary and is working as Chaudhary since 1992. Workman, in order to prove his case, has tendered in evidence his affidavit Ex.WW1/A, wherein material averments contained in statement of claim has been reiterated. It is specifically alleged in the affidavit that he was doing work of Chaudhary/officiating Chaudhary with effect from 01.06.1993.

9. To my mind, as similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of MCD vs. Sultan Singh as well as MCD vs. Mahipal(WP 5550 of 2010). Operating portion of the judgement in Sultan Singh (supra) of the Hon'ble Division Bench is as under:

“28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un-sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost.”

10. It is further clear that SLP was also filed by MCD before the Hon'ble Apex Court for special leave to appeal (C) No.S20069/2011 MCD vs. Sultan Singh and others, which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon'ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, as such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary.

11. It is not out of place to mention here that even if the workman herein was not a party in Sultan Singh case referred above, judgement of the Hon'ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon'ble High Court, which have become final. The Hon'ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post, on adhoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon'ble Apex Court while considering that question of grant of benefits

to similarly situated employees who were not party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

“The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma & Ors. v. Union of India (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

12. In view of the discussions made herein above, it is held that the workman herein, Shri Azad Singh is entitled to the pay scale of Garden Chaudhary with effect from 01.06.1993 and as a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties and functions of Garden Chaudhary till date. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

June 1, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 14 जून, 2016

का.आ.1220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पीजीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 282/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.06.2016 को प्राप्त हुआ था।

[सं. एल-42012/154/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 14th June, 2016

S.O.1220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 282/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of PGI and their workmen, received by the Central Government on 14.06.2016.

[No. L-42012/154/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH****Present:** Sri Kewal Krishan, Presiding Officer**Case No. 282/2005**

Registered on 10.08.2005

Sh. Bharat Bhushan Vohra C/o General Secretary,
 PGI Medical Technologists Association, PGI & MER,
 Sector-12, Shopping Complex, Near Red Cross Canteen,
 PGI, Chandigarh

...Applicant

Versus

The Director, PGIMER, Sector-12, Chandigarh

...Respondent

APPEARANCES :

For the workman - Sh. Ranjan Lohan, Adv.

For the Management - Sh. N. K. Zakhmi, Adv.

AWARD

Passed on:- 13.1.2016

Vide Order No.L-42012/154/2004-IR(CM-II), dated 04.07.2005 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of PGI, Chandigarh in not granting the benefits of past service in the temporary post of Junior Laboratory Technician held by Sh. Bharat Bhushan Vohra w.e.f. 01.11.1988 is legal and justified? If not, to what relief the workman is entitled to and from which date?”

The facts, in brief are that the workman joined as Junior Lab Technician on 01.11.1988 on ad hoc basis with the respondent-management for 89 days. He was appointed as Temporary Employee vide order dated 16.02.1989. He was transferred to the other department of the respondent-management on 26.04.1990, where he remained till 01.06.1993. The workman was selected for regular appointment vide order dated 28.05.1993 on permanent post. He was asked to submit his resignation and he accordingly submitted the same on 31.05.1993 and rejoined the duty on 02.06.1993. The selections were challenged in the Hon’ble High Court and the appointment was made on ad hoc basis. However, the services of the workman were extended from time to time and his services were regularized vide order dated 14.08.1995 w.e.f. 02.06.1993 after the disposal of the petition. He was confirmed vide order dated 15.12.1995.

According to him, his basic pay was not protected when he was absorbed against a permanent post and he was given the minimum pay scale as Junior Lab Technician. He was continuously in service and his pay was to be protected which he was already drawing. Similar situated employees were given the benefit of pay protection but his representation was rejected.

The workman has claimed pay protection and other benefits accruing on account of his ad hoc services rendered by him.

Respondent-management filed written reply admitting the service of workman but denied that the workman is entitled to pay protection and other benefits on account of the ad hoc services rendered by him prior to his appointment of regular basis.

Parties led evidence.

Today the case was fixed for arguments. The workman appeared along with his counsel and made a statement not pressing the present reference and sought liberty to file a fresh reference.

Since the workman and his counsel did not press the reference and therefore, the reference is answered holding workman is not entitled to any relief.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 15 जून, 2016

का.आ.1221.—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एकसीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, पटना के पंचाट [संदर्भ सं. 12(सी)/2001] को प्रकाशित करती है जो केन्द्रीय सरकार को 15.06.2016 को प्राप्त हुआ था।

[सं. एल-22012/11/1997-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 15th June, 2016

S.O.1221.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref. No. 12(C)/2001] of the Central Government Industrial Tribunal-cum-Labour Court, Patna as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 15-06-2016.

[No. L-22012/11/1997-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL, PATNA

Reference Case No.: 12 (C) of 2001.

Between the management of the Sr. Regional Manager, FCI, Arunanchal Building, Exhibition Road, Patna and their workman Sri Manoranjan Sharma represented through the State Joint Secretary (weefars), F.C.I Staff Union, Arunanchal Building, Exhibition Road, Patna.

For the management : Sri S.R. Sharan, Advocate.

Sri Muneshwar Pd. (Manager Legal.)

Sri Jyoti Shankar Bose. (Asst. Manager Legal))

For the workman : Sri Nalin Vilochan Tiwary (Advocate)

Sri V. Kumar (FCI Executive Staff Union)

Present : Sri Bipin Dutta Pathak, Presiding Officer, Industrial Tribunal, Patna.

AWARD

Patna, dated : 5th February, 2016

By notification order No.- L-22012/11/97-IR(C-II) New Delhi, dated- 18.01.2000 Govt. of India// Bharat Sarkar Ministry of Labour/Shram Mantralaya, New Delhi referred under clause (d) of sub-section (1) and sub-section (2A) of section-10 of the Industrial Dispute Act, 1947 (hereinafter to be referred to as 'the Act') the following dispute between the management of the Sr. Regional Manager, FCI, Arunanchal Building, Exhibition Road, Patna and their workman Sri Manoranjan Sharma represented through the State Joint Secretary (weefars), F.C.I Staff Union, Arunanchal Building, Exhibition Road, Patna adjudication to the Cent. Govt. Indus. Tribunal-cum-Labour Court No.-2, Dhanbad and Cent. Govt. Indus. Tribunal-cum-Labour Court No.-2, Dhanbad has sent the record of Reference Case No.- 173 of 1998 through its letter No.- LCT/2000/769 dated-18th May, 2001 to State Industrial Tribunal, Patna for adjudication.

SCHEDULE

"Whether the action of the management of FCI in retrenching and not regularising the services of Sh. Manoranjan Sharma, Sh. Dharmendra Kumar, Smt. Lilawati Devi and Sh. Ram Kumar Sharma is justified? If not, to what relief the workman are entitled?"

2. Written statement has been filed on behalf of the workman on 08.10.2003 stating therein concerned employee were employed in FSD, Bellouri under FCI, District Office, Purnea during the period of June-1990 by the Management FCI as causal employee as daily rated workmen and after their engagement they were discharging their duties to sweep the godown, to collect the food grains, to fill the loose grains into bag, to stich bags, to lock and unlock the sheds beside attending post office and others mislaneous work. They were discharging their duty as sweeper, watchman and also as messenger which is category IV post but they were being paid daily wages against contingent and their attendance was also being marked by the superior, by putting A & P but the concerned workmen was not allowed to put their attendance

on the muster roll. All of a sudden during the month May, 1991. They were stopped from attending the job without observing the mandatory provisions of section-25 of the Industrial Dispute Act, 1947 as no notice or notice pay and compensation was given to them even after completion of more than 240 days service during the aforesaid period. Retrenchment is illegal and unjustified. Workman are entitled for their retrenchment with full back wages from date of their retrenchment.

After retrenchment which number of casual employees similarly situated junior to the concerned workman have already been absorbed and regularised as such non regularisation of their services was also illegal and unjustified. Huge vacancies against category IV post is even at present. Thus they are entitled for regularization against category IV post.

3. Written statement was filed by the management on 13.01.2004. It has been stated that by way of preliminary objection FCI management submits that the reference is bad in law and not maintainable. On the following grounds :

- (a) There is no valid Industrial Dispute in the present case in the eye in the eye of law or within the meaning of section 2(K) of the I.D.Act.
- (b) Reference order is vague and suffers from the vice of total non-application of mind by the Govt.
- (c) Sponsoring union has no locus standi in the matter as the so-called persons are not its members and it is not competent to raise any Industrial Dispute on their behalf.
- (d) The O.P is not required to take any action as envisaged in the reference order.
- (e) Reference has been made in ignorance.
- (f) No demand was ever made to the opp. Party.
- (g) Reference is an abuse of the process of law.
- (h) Reference is specified for adjudication and the deserves to be read subject to section 10(4) of the I.D.Act.
- (i) Question which is not directly raised in the reference will not have to be considered in directly while determining another matter.

No dispute was raised by the person concerned with FCI management. Any request sent by them to the Govt. would only be a demand and not an Industrial Dispute. Raising of the dispute as alleged after many - many years of the alleged cause of action does not become an Industrial Dispute. FCI management had awarded contracts to private parties from time to time for the jobs of transportation of foodgrains, storage and handing of the same in food storage depot and for carrying on incidental job. Management has engaged the depot.-in-charges for exercising supervision and control of the jobs under their respective charges. Depot-in-charge used to Co-ordinate with the contractor. None of the concerned person held any post on permanent or regular basis. No casual labour in the said names were engaged in FSD, Belauri during the material period w.e.f 01.06.1990 to 01.07.1991 as per attendance sheet of FSD, Belauri. There is no relating the employment of the concerned workman at Patna Regional office or any FSD under the jurisdiction of the Dist. Manager, FCI, Purnea. The concerned workmen are not entitled to any relief.

4. Rejoinder on behalf of the workman to written statement of the management has been filed.

5. It appears that management has moved before the Hon'ble High Court against the order dated-13.01.2004 by which objection petition for preventing of V. Kumar from representing the worker was dismissed by this tribunal and management moved against that order to Hon'ble High Court in C.W.J.C No.- 2848 of 2004 which was finally dismissed as withdrawn on 23.02.2011. Again objection petition was filed on behalf of the management stating that four alleged workmen namely Sri Manoranjan Sharma, Sri Dharmendra Kumar, Smt. Lilawati Devi and Sri Ram Kumar Sharma whose identify is not disclosed the case is fit to be decided infavour of the management of FCI.

6. Vide order dated- 06.01.2014 that petition was rejected at the cost of Rs. 1000/- . Case was fixed for 18.02.2014 and management was directed to produce evidence. Management filed argument and one witness M.W-1 Rajendra Kumar was examined & cross-examined. Some document were exhibited. Thereafter workmen remained absent and M.W-2 was examined and cross – examination was deferred to 18.06.2014. M.W-2 was present but no one appeared for cross-examination then M.W-2 was discharged case was fixed on 28.07.2014 but no one appeared on behalf of the workmen so case was adjourned to 20.08.2014. On 20.08.2014 no one appeared on behalf of the workmen M.W-3 Yogendra Prasad Yadav was examined on behalf of the management no one appeared on behalf of the workmen to cross-examination the witness so witness was discharged and evidence of the management was closed. Case was fixed for 15.09.2014 for the evidence of the workmen. But the workmen remained absent on 15.09.2014, 05.11.2014, 02.12.2014, 12.01.2015, 12.02.2015, 11.03.2015, 15.04.2015, 14.05.2015. On 11.06.2015 workmen remained absent. Heard representative of the management and award was reserved.

7. Document exhibited on behalf of the management is Ext.-M bills of casual labourer from May-1990 to July-1991 and Ext.-M/1 work done certificate of casual labourer June-1990 to July-1991.

8. M.W-1 Rajendra Kumar stated that attendance of casual labourer was made in attendance register and in the bills of labourer from May-1990 to July-1991, Ext.-M. There is no entry of name of Manoranjan Sharma, Dharmendra Kumar, Smt. Lilawati Devi, Ram Kumar Sharma. Nothing has been gathered in cross-examination.

M.W-2 Bindeshwari Kujur has also stated that he was posted in year 1990-91 in the FSD Bellouri. Within his knowledge in the name is Manoranjan Sharma, Dharmendra Kumar, Smt. Lilawati Devi, Sri Ram Kumar Ram, no persons was working their. This witness was not cross-examined.

M.W-3 Yogendra Prasad Yadav has similar stated that he was posted in FSD Bellouri in the year 1990-91 and no persons in the name of Manoranjan Sharma, Dharmendra Kumar, Smt. Lilawati Devi, Sri Ram Kumar Sharma was not working their. This witness is also cross-examined.

FINDINGS

9. There is no evidence on behalf of the workmen because workmen has not examined any witness. So I am no hesitation to state that workmen had not succeeded to prove his case and evidence of the management have not challenged by the workmen.

In the circumstances, stated above award is passed that time was no occasion for the action of the management of FCI in retrenching and not regularising the services of Sh. Manoranjan Sharma, Sh. Dharmendra Kumar, Smt. Lilawati Devi and Sh. Ram Kumar Sharma. As such workmen is not entitled to any relief.

This is my award accordingly.

Dictated & Corrected by me.

BIPIN DUTTA PATHAK, Presiding Officer